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March 26, 2001

**VIA HAND DELIVERY**

Docket Control
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, Arizona 85007

**Re: U S WEST Communications, Inc.'s Compliance with Section 271 of the Telecommunications Act of 1993, Docket No. T-00000A-97-0238**

To Whom It May Concern:

Enclosed for filing in the above matter are the original and ten copies of the Affidavits of Marie E. Schwartz and Judith L. Brunsting. If you have any questions, please do not hesitate to contact me.

Very truly yours,

Timothy Berg

Arizona Corporation Commission
DOCKETED

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TB/dp
Enclosure

cc: All parties of record

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BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

| | | |
|---|---|---|
| **IN THE MATTER OF U S WEST COMMUNICATIONS, INC.'S COMPLIANCE WITH SECTION 271 OF TELECOMMUNICATIONS ACT OF 1996** | ] | **DOCKET NO. T-00000B-97-238** |

**AFFIDAVIT OF**

**MARIE E. SCHWARTZ**
**RE: 272**

**QWEST CORPORATION**

**MARCH 26, 2001**

**Proprietary and Confidential**

(REDACTED VERSION)

PHX/1168136.1/67817.150

## TABLE OF CONTENTS

## I. IDENTIFICATION OF AFFIANT

My name is Marie E. Schwartz and my business address is 1314 Douglas-On-The-Mall, Floor 10, Omaha, Nebraska 68102. I am a director in FCC Regulatory Accounting at Qwest Corporation ("The BOC") and am responsible for ensuring Qwest Corporation's regulatory accounting compliance with Section 272 of the Telecommunications Act of 1996 ("the Act").

I hold a Bachelors Degree in Business Administration from the University of Nebraska at Omaha as well as a Certified Management Accountant certificate from the Institute of Management Accountants.

I have over 13 years experience in the telecommunications and high tech industries, concentrating in regulatory compliance, finance, and accounting. I began my career with U S WEST Communications, Inc., now Qwest Corporation, in 1989 in the Tax Department. In 1990, I began working in FCC Regulatory Accounting where I had responsibilities in Part 64 cost allocation and Part 32.27 affiliate transactions compliance for six years, during which time I chaired an industry task group representing those areas. From 1996-1999, I gained further accounting and finance experience in the high tech industry in California. I resumed my career at U S WEST Communications, Inc., now Qwest Corporation, in 1999.

## II. PURPOSE OF AFFIDAVIT

The purpose of my affidavit is to demonstrate that Qwest Corporation is prepared to satisfy all of the relevant requirements of Section 272 of the Act, and related FCC rules, following Qwest Corporation's receipt of in-region interLATA authority in Arizona.

My affidavit addresses the primary requirements of Section 272 of the Act. Section 272 contains eight statutory requirements designed to prohibit anti-competitive behavior, discrimination, and cost shifting between a Bell Operating Company (BOC), like Qwest Corporation (formerly U S WEST Communications, Inc.), and its long distance affiliate.

To satisfy its Section 271 obligations, the FCC requires a BOC to demonstrate "that it will comply with the requirements of Section 272."[1] My affidavit will address each of the eight requirements in Section 272 and how Qwest Corporation's Section 271 authorization "will be carried out" in compliance with Section 272, and therefore satisfy the FCC's requirements.[2] I will also

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[1] *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to provide In-Region, interLATA Service in the State of New York, CC Docket No. 99-295, Memorandum Opinion and Order, FCC 99-404, (rel. Dec. 22, 1999), ¶ 403 ("Bell Atlantic New York Order"),*

[2] *Application by SBC Communications Inc., Southwestern Bell Telephone Company, And Southwestern Bell Communications Services Inc. d/b/a/ Southwestern Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, Inter-LATA Services in Texas, CC Docket No. 00-65, Memorandum Opinion and Order, FCC 00-238, (rel. June 30, 2000), ¶ 394("SBC Texas Order"), Joint Application by SBC Communications Inc., Southwestern*

review the employee training and awareness efforts that Qwest Corporation has undertaken to ensure that the requirements of Section 272 continue to be followed.

Throughout my affidavit, I refer to several different companies within the Qwest Corporate family. Three companies, however, are discussed repeatedly: (1) Qwest Services Corporation (QSC); (2) Qwest Communications Corporation (QCC) and (3) Qwest Corporation (QC). Given the similarity of the acronyms, it might be difficult to review the affidavit if the companies were referred to in that manner. As a result, throughout the affidavit I will refer to QSC, the parent of QC and QCC, as the "Services Company", QCC as the Section "272 Affiliate" and QC as the "BOC." This should eliminate any confusion. See Exhibit MES-1 for an illustration of this structure.

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*Bell Telephone Company, And Southwestern Bell Communications Services Inc. d/b/a/ Southwestern Long Distance for Provision of In-Region Inter-LATA Services in Kansas and Oklahoma, CC Docket No. 00-217, Memorandum Opinion and Order, FCC 01-29, (rel. January 22, 2001), ¶ 256 ("SBC Kansas/Oklahoma Order")*

## III. EXECUTIVE SUMMARY

The specific provisions of Section 272 include:

- Section 272(a), Separate Affiliate Requirement
- Section 272(b), Structural and Transactional Requirements
- Section 272(c), Nondiscrimination Safeguards
- Section 272(d), Biennial Audit Requirement
- Section 272(e), Fulfillment of Requests for Telephone Exchange Service
- Section 272(f), Sunset Provisions
- Section 272(g), Joint Marketing
- Section 272(h), Transition Provisions

Section 272(a) requires the BOC to provide in-region interLATA long distance services through a separate long distance affiliate. The BOC will offer such long distance services, upon Section 271 approval, through its long distance affiliate, Qwest Communications Corporation ("the 272 Affiliate").

Section 272(b) requires that the BOC and Section 272 Affiliate maintain separate books, records, and accounts; have their own directors, officers, and employees; and, conduct all transactions on an arm's length basis, with all such transactions reduced to writing, and available for public inspection. Moreover, the 272 Affiliate cannot obtain credit that will provide recourse to the assets of the BOC. The BOC is prepared to satisfy these requirements of the Act.

Section 272(c) prohibits the BOC from discriminating between the 272 Affiliate and any other entity in the provision or procurement of goods, services, facilities, and information, or in the establishment of standards. The BOC is prepared to satisfy this requirement of the Act.

Section 272(d) requires that, once the BOC obtains Section 271 authority, that it obtain and pay for a joint Federal/State audit every two years to determine whether the company has complied with the requirements of Section 272 and the regulations promulgated under Section 272. In particular, the audit will determine whether the company has complied with the separate accounting requirements of Section 272(b). The BOC will adhere to this provision of the Act.

Section 272(e) requires the BOC to fulfill requests from unaffiliated entities for telephone exchange service and exchange access within the same period, under the same terms and conditions, and at an amount that is no more than that for which it provides such services to its 272 Affiliate. The BOC will satisfy these requirements of the Act.

Section 272(f) contains sunset provisions, which state that the separate affiliate requirements on manufacturing and long distance will end three years after entry in a given state unless extended by FCC rule or order. In addition, Section 272(f) preserves the existing authority of the FCC to prescribe safeguards consistent with the public interest, convenience, and necessity. The BOC will adhere to this section as required by the FCC.

Section 272(g) permits the BOC to join in the marketing and sale of the 272 Affiliate's in-region interLATA service once the 272 Affiliate is authorized to provide in-region interLATA services under Section 271(d). Such joint marketing of services will be exempt from the nondiscrimination provisions of Section 272(c). Section 272(g) also provides that the 272 Affiliate may not market or sell the BOC's telephone exchange services unless other similar entities are permitted to do the same. The BOC will adhere to these provisions of the Act.

Finally, Section 272(h) gave the BOC one year to conform to the requirements of Section 272 to the extent that it was already engaged in any interLATA long distance or interLATA information services in February 1996. Because the BOC was not engaged in any such activities, this transitional period did not apply to the BOC.

## IV. TRANSITION TO NEW SECTION 272 AFFILIATE

On June 30, 2000, U S WEST, Inc. merged with Qwest Communications International, Inc. Prior to the merger, U S WEST, Inc. planned to offer in-region interLATA services as a reseller, through U S WEST Long Distance, now named Qwest Long Distance. In August 2000, Qwest decided to reevaluate the appropriate entity to serve as its Section 272 affiliate. This prompted notification to several state commissions asking that Section 272 workshops be delayed.

In January 2001, Qwest Communications International, Inc. decided to offer in-region interLATA services as a facilities-based provider, instead of as a reseller. QCC fit this strategy because it offered facilities-based functionality as well as interLATA expertise. Therefore, it was determined that Qwest would transition from Qwest Long Distance to QCC as the Section 272 Affiliate. Prior to the merger, U S WEST filed testimony to demonstrate that U S WEST Long Distance, now Qwest Long Distance was Section 272 compliant. As a result of the new strategy, it was necessary to put processes in place to prepare QCC as the new Section 272 affiliate. Hence, a transitional period commenced.

Congress recognized the need for a transition period when it passed the Act in 1996. Section 272(h) specifically allowed BOCs one year from the date of enactment to comply with the requirements of Section 272. Similarly, the FCC has recognized that a non-272-compliant affiliate may properly transition to 272 compliance by simply complying "with the separate affiliate requirements of section 272 and the Commission's rules."[3] Qwest has undergone a similar transitional period.

The Qwest family of companies has spent the last three months transitioning QCC to be Section 272 compliant so that it could serve as its new Section 272 subsidiary. Transition activities commenced immediately after the decision was made to make QCC the new Section 272 affiliate. These activities included such things as realigning employees who would be providing governance and administrative services to the family of Qwest companies from the BOC and the 272 Affiliate to the Services Company, writing contractual arrangements between the BOC and the 272 Affiliate, evaluating transactions, reviewing pricing, ensuring posting and meeting all other requirements of Section 272 as soon as possible. The BOC now has processes in place to meet all eight statutory requirements in Section 272 for QCC, the 272 Affiliate.

## V. SECTION 272

### The BOC Complies with Section 272(a) – Separate Affiliate Requirement

Section 272(a) of the Act states that any interLATA long distance service that originates from a BOC customer in a state within its region shall be provided

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[3] *In re Applications of Ameritech Corp. and SBC Communications, Inc. for Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95, and 101 of the Commission's Rules*, CC Docket No. 98-141, *Memorandum and Order*, FCC 99-279 (rel. Oct. 8, 1999) ("*SBC/Ameritech Merger Order*"), *Appendix C* at n. 40 (contemplating that the structure of the advanced services affiliate contemplated by the

through an affiliate that is separate from the BOC. The BOC complies with the separate affiliate requirement of Section 272(a).

Qwest Corporation is a BOC within the meaning of the Act. Therefore, the BOC will not provide in-region interLATA services originating within the BOC 14 state region as long as the structural separation obligation of Section 272 applies to this activity. In fact, the 272 Affiliate is already the fourth largest interLATA provider nationwide. Nonetheless, because of the merger with U S WEST, Qwest Communications International, Inc. was required to divest itself of all of its in-region interLATA business. [4]

When the BOC receives Section 271 approval from the FCC, interLATA long distance service originating from within Arizona will be offered exclusively through the 272 Affiliate. The 272 Affiliate, a wholly owned subsidiary of the Services Company, is fully separate from the BOC. The Services Company is a wholly owned subsidiary of Qwest Communications International, Inc. The BOC owns no stock in the 272 Affiliate; nor does the 272 Affiliate own any stock of the BOC. See Exhibit MES-1 for an illustration of the BOC structure. The affidavit of

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order is not sufficient to serve as a section 272 affiliate, but that such an affiliate may be brought into compliance and serve as the 272 affiliate upon receipt of 271 approval).

[4] See *In re Qwest Communications International Inc. and U S WEST, Inc.; Applications for Transfer of Control of Domestic and International Sections 214 and 310 Authorizations and Applications to Transfer Control of a Submarine Cable Landing License*, CC Docket No. 99-272, *Memorandum Opinion and Order*, FCC 00-231 (rel. June 26, 2000), *("Divestiture Order")*

Ms. Judith L. Brunsting contains further explanation of the structure and organization of the 272 Affiliate.

## The BOC is Prepared to Comply with Section 272(b) – Structural and Transactional Requirements

Section 272(b) places five structural and transactional requirements on the interactions between the BOC and 272 Affiliate. These separate affiliate requirements are addressed in further detail in CC Docket 96-149, the Non-Accounting Safeguards Orders[5], and CC Docket 96-150, the Accounting Safeguards Order.[6] Specifically, Section 272(b) requires that the 272 Affiliate:

1. Operate independently from the BOC;

2. Maintain books, records, and accounts in the manner prescribed by the FCC that shall be separate from the books, records, and accounts maintained by the BOC;

3. Have separate officers, directors, and employees from the BOC;

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[5] See *In the Matter of Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended*, CC 96-149, *First Report and Order and Further Notice of Proposed Rulemaking*, FCC 96-489 (rel. December 24, 1996).

[6] *In the Matter of Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996*, CC Docket No. 96-150, *Report and Order*, FCC 96-490 (rel. December 24, 1996).

4. Not obtain credit under any arrangement that would permit a creditor, upon default, to have recourse to the assets of the BOC; and,

5. Conduct all transactions with the BOC on an arm's length basis, with all such transactions reduced to writing and available for public inspection.

These five requirements formalize some of the well-known tenets of corporate law. They also provide the FCC with measurable indicators that the BOC and the 272 Affiliate operate independently.

Corporate law and the theory of corporations as separate independent entities can be traced far back in legal history. This theory of independence provides the presumption that corporations, as separate entities, are able to conduct business and enter into contracts and obligations, while limiting the liability of shareholders and owners. It is very difficult to overcome this presumption of the corporation as a separate entity.

In limited, very rare circumstances, courts have relied upon a doctrine known as "piercing the corporate veil" to look beyond the corporate form and hold a parent company responsible for the activities of its subsidiary. The BOC and the 272 Affiliate do not have a parent/subsidiary relationship; rather they are brother/sister corporations. While courts have been willing to impose the liabilities of one corporation upon another, they have been reluctant to do so except in instances where the entities have failed to follow any notion of the requisite corporate formalities. Only when the failure results in such a close relationship between the two companies that one is, in essence, the "alter ego" of the other, have courts imposed the liabilities of one corporation upon the other. Otherwise, as a matter of law, two corporations, each with its own board of directors, are deemed to have an independent existence. Given these basic tenets, the BOC and the 272 Affiliate are clearly two separate and distinct corporations.

**Section 272(b)(1) - Operate Independently**

Section 272(b)(1) provides that the BOC and 272 Affiliate shall operate independently. The BOC and the 272 Affiliate currently operate independently and in compliance with the requirements of the Non-Accounting Safeguards Orders. The BOC and the 272 Affiliate do not and will not jointly own telecommunications switching or transmission facilities, or the land or buildings where those facilities are located for so long as such a restriction applies under the rules.

Not only is there no joint ownership of network facilities, but no switching and transmission facilities have been transferred to the 272 Affiliate. Moreover, on a going-forward basis, the BOC will be monitoring asset transfers on a quarterly basis beginning March 31, 2001, to insure compliance with Section 272(b)(1).

Section 272(b)(1) includes the additional rules associated with the performance of operation, installation or maintenance ("OI&M") functions. Neither the BOC nor any Qwest affiliate performs any OI&M functions on behalf of the 272 Affiliate's switching and transmission facilities. Similarly, the 272 Affiliate does not perform such functions associated with the BOC facilities. To ensure Qwest continues to meet this requirement, the Services Company conducted extensive one on one training with over approximately fifty Network department leaders.

The BOC satisfies the Section 272(b)(1) requirement for operational independence and will remain in compliance for as long as this requirement is in effect.

**Section 272(b)(2) - Separate Books, Records, and Accounts**

Section 272(b)(2) requires that the BOC maintain separate books, records, and accounts from the 272 Affiliate in the manner prescribed by the FCC. The BOC and the 272 Affiliate are separate legal entities and as such the accounting records of the two entities are not commingled.

Several safeguards are utilized to create system security, controls, and procedures that insure the BOC and the 272 Affiliate's accounting records are separate. The BOC processes its financial transactions on systems designed to recognize the unique entity code assigned to the BOC. It is simply not possible for one entity to enter transactions using an entity code belonging to another entity, such as the 272 Affiliate. Further, the 272 Affiliate currently uses a separate general ledger system to create its own set of books.

The BOC and the 272 Affiliate do not share a common Chart of Accounts. The BOC Chart of Accounts, which is based on the FCC's Uniform System of Accounts for Telecommunications companies ("USOA"), is attached as Confidential Exhibit MES-2. See Ms. Judith Brunsting's affidavit for the 272 Affiliate's Chart of Accounts.

Security measures require each employee of the Qwest family of companies to be assigned a unique User ID. Once a User ID is assigned, the employee submits a request form, signed by his or her supervisor, for approval by the system control group before access is granted to any specific financial systems. If the employee has a job that requires access to specific systems, the control group enables the employee's User ID to access the particular data sets or applications needed. System edits are entity-specific requiring that, when accessed, a system will post data only if the correct combinations of User ID, entity code, and account and responsibility code are entered. Additional system edits are designed to provide meaningful controls based on the information and reporting needs of the entity; therefore, data fields that are valid and have meaning for one entity may not be valid for another entity.

This combination of system security, controls and procedures ensures separateness by requiring each company to have its own books, keep its own records, and have its own Chart of Accounts. At the same time, processing on common consolidating financial systems permits consolidated reporting at the Qwest Communications International, Inc. level as required for Federal and State tax, as well as Securities and Exchange Commission ("SEC") purposes and is an acceptable practice under Section 272.[7]

The BOC follows Generally Accepted Accounting Principles ("GAAP") and regulatory accounting rules as required by the FCC. The BOC's books, records, and accounts are maintained in accordance with USOA, Part 32.27, and Part 64.901, Allocation of Costs. Annual reports are filed publicly via the FCC's Automatic Reporting and Management Information Systems ("ARMIS") and are

[7] *See General Standard Procedures For Biennial Audits Required Under Section 272 of the Communications Act of 1934, As Amended, As of December 16, 1998. ("Biennial Audit Procedures") at Objective II, Procedure 1.*

accompanied by the report of independent accountants, Arthur Andersen, L.L.P. ("Arthur Andersen.")[8]

The affidavit of Ms. Judith L. Brunsting further describes the accounting practices of the 272 Affiliate, its Chart of Accounts, and other evidence that establishes that the 272 Affiliate's books, records, and accounts are separate from those of the BOC.

The BOC will continue to maintain books, records, and accounts that are separate from the 272 Affiliate and comply with Part 32, Part 64, and the Accounting Safeguards Order for so long as this requirement is in effect.

**Section 272(b)(3) - Separate Officers, Directors, and Employees**

Section 272(b)(3) requires that the BOC and the 272 Affiliate have separate officers, directors, and employees. The 272 Affiliate's president is not an officer of the BOC, nor is any BOC officer or employee also an officer or employee of the 272 Affiliate. As long as this requirement of Section 272 applies, no officer or director of the BOC will simultaneously be an officer or director of the 272 Affiliate. See Exhibit MES-3 for the officer list of the BOC.

[8] In FCC Docket No. 99-253, *Report and Order issued In The Matter of Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase I*, the FCC changed the requirement that large ILECs obtain an annual financial audit. Instead they gave carriers the option of choosing an attest examination or financial audit every two years covering the prior two-year period. The order was effective March 2, 2000, thus the audit engagement for the year 2000 will be combined with 2001 and the report will be issued in 2002.

The BOC and the 272 Affiliate also have separate employees, paid from separate payrolls. I have overseen the comparison of payroll registers of the BOC and the 272 Affiliate to ensure no employee appears on both payrolls. A comparison of the BOC and the 272 Affiliate officer lists, and a payroll comparison, satisfies the FCC's test for Section 272(b)(3) compliance.[9]

Employees at Qwest apply for jobs through a process that is similar to external hiring process when they move from one organization to another, or from one company to another. In order for an employee to "transfer" from one affiliate to another, the employee must be terminated and re-hired. Employees are required to return assets such as pagers, cell phones, etc. and have them re-issued in accordance with the hiring company's practices.

The BOC employees who provide services to the 272 Affiliate do so under contract. These transactions under contract are conducted at "arm's length," reduced to writing, and available for public inspection consistent with Section 272(b)(5). The Master Services Agreement ("MSA") constitutes the general agreement for services provided by the BOC to the 272 Affiliate. The MSA requires the BOC to perform its obligations as an independent contractor and not as an agent or employee of the 272 Affiliate. See Article 6 of the MSA, which is included as Exhibit MES-4. The MSA is available on the Qwest Communications

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[9] *Bell Atlantic New York Order ¶ 409, SBC Texas Order, ¶ 401*

International, Inc. Internet Home Page at http://www.qwest.com/about/policy/docs/qcc.overview.html as required by the Accounting Safeguards Order.

Again, the BOC and the 272 Affiliate currently satisfy the requirement to have separate officers, directors, and employees. The BOC and the 272 Affiliate will continue to do so for as long as required under Section 272.

**Section 272(b)(4) - No Recourse to the BOC's Assets**

Section 272(b)(4) prohibits the 272 Affiliate from obtaining credit under any arrangement that would permit a creditor, upon default, to have recourse to BOC assets. Qwest Communications International, Inc. employs three mechanisms to comply with this requirement.

First, the BOC is capitalized separately from other Qwest affiliates.

Second, the BOC issues its own direct financial obligations, principally commercial paper, notes, and bonds, to fund its operations. The BOC's commercial paper and long-term debt are rated separately from the other financial obligations of Qwest Communications International, Inc. by the rating agencies further evidencing the separation between the BOC's funding and that of the rest of Qwest Communications International, Inc.'s operations. Funding for all other Qwest entities, including the 272 Affiliate is provided by financial obligations issued by Qwest Capital Funding, Inc. (QCFI), a separate subsidiary of Qwest Communications International, Inc., which guarantees the debt issued by QCFI. Neither the debt obligations issued by QCFI nor the guarantee by Qwest Communications International, Inc. provides creditors recourse to the assets of the BOC.

Third, neither Qwest Communications International, Inc., nor the BOC, have co-signed a contract or any other instrument that would allow the 272 Affiliate to obtain credit in a manner that grants the creditor recourse to the BOC's assets in the event of a default by the 272 Affiliate. The BOC will continue to satisfy this Section 272 requirement for as long as it applies.

**Section 272(b)(5) - Transactions at Arm's Length, In Writing and Publicly Available**

Section 272(b)(5) requires that all transactions between the BOC and the 272 Affiliate be conducted at arm's length, reduced to writing, and available for public inspection. The purpose for this requirement is to assist the FCC in determining that such transactions are conducted in compliance with FCC accounting rules and to make sure such services are available to third parties consistent with the non-discrimination requirements of Section 272(c).

All services provided by the BOC to the 272 Affiliate are either tariffed services or services provided under separate contract. Tariffed services have always been a matter of public record. Contracted services between the BOC and the 272 Affiliate have been identified and priced according to FCC rules. These services were initially identified through the company's affiliate transaction processes. These processes were supplemented during the transition from Qwest Long Distance to the 272 Affiliate by engaging Arthur Andersen as loaned staff to meet Section 271 procedural schedules. Arthur Andersen met with key personnel and conducted over 150 interviews to ensure that all transactions had been identified.

The BOC will post its Section 272 transactions on the Internet within ten (10) days of being executed by both parties, in accordance with the rules of Section 272(b)(5) and the Accounting Safeguards Order. Transactions between the BOC and Qwest Long Distance are located on the Qwest Communications International, Inc. Internet site on the Qwest Long Distance web page.

Transactions identified between the BOC and the 272 Affiliate ("QCC") from the merger date of June 30, 2000 to December 31, 2000 have been posted on the QCC web page. I will refer to these transactions as "Phase I" transactions. These transactions consist of the MSA, Services Agreement ("SA"), work orders and task orders, as described later in my affidavit.

New services identified after December 31, 2000, will be referred to as "Phase II" transactions. Transactions processed as a result of the Arthur Andersen interviews are also included in Phase II. All transactions processed to date are available for public inspection and posted on the Qwest Communications International, Inc. Internet site on the QCC web page.

It is important to note that the BOC has taken a conservative approach concerning transactions with the 272 Affiliate. While QCC ("272 Affiliate") was not designated a Section 272 affiliate until January 2001, the BOC has identified and posted any transactions identified with QCC ("272 Affiliate") back to the Qwest–U S WEST merger date on June 30, 2000. This is further evidence of the BOC's commitment to Section 272 Compliance.

Any IXC will be able to view the transactions, evaluate the rates, terms and conditions of the offering, and decide whether it is interested in obtaining the same service from the BOC. In addition to contracts, the section labeled "tariff rated services" provides a description of the services that the 272 Affiliate purchases out of the BOC's tariffs. This section also contains a hot link to another Internet site where the tariffs themselves can be found.

In addition, posted in the section labeled "terminated transactions" is a reference to prior year or expired transactions. This link refers to records the

BOC keeps on file that contain detailed billing information between the BOC and its 272 Affiliate. This billing information is simply back-up detail calculating out the predetermined rates (disclosed on the website) with the basis for pricing, i.e., hours, headcount, level of employee expertise providing the service, etc. (also disclosed on the website.) The back up billing detail is compared to services listed in the Cost Allocation Manual ("CAM") to ensure a complete record and is reconciled to the FCC's ARMIS report. Prior year transactions are available for inspection at the BOC's principal place of business under confidential agreement.

Terminated contracts will remain listed in this section under the link labeled "Expired Agreements" for one year after the date of termination. All transactions will be accompanied by an officer affidavit stating that the BOC complies with the Section 272(b)(5) requirement to post and make public all transactions between the 272 Affiliate and the BOC, as required in the Accounting Safeguards Order.

To meet the "arm's length" requirement, the 272 Affiliate will place orders for tariffed services in the same manner as other interexchange carriers, and those orders will be processed by an IXC Sales Executive Team account representative in a nondiscriminatory manner.

Processes have also been established for the 272 Affiliate to purchase non-tariffed products, services, facilities and information under contract. Such transactions are documented in the form of MSAs and work orders. The MSA, attached as Exhibit MES-4, contains the general articles governing the way the BOC and the 272 Affiliate conduct business when the BOC provides services to the 272 Affiliate. Work orders are the mechanisms used to document the specific transactions provided under these contracts and contain detailed rates, terms, and conditions.

Similarly, the SA contains the general articles governing the way in which the 272 Affiliate provides services to the BOC. Task orders are the mechanisms used to document the specific transactions provided under these contracts and contain detailed rates, terms, and conditions. Business unit affiliate managers are responsible for administration and billing of services contained in these work orders and task orders. All agreements are subject to FCC Part 32.27 Affiliate Transaction rules.

The BOC has instituted an additional control to review all services between the BOC and the 272 Affiliate known as the Compliance Oversight Team made up of regulatory accounting, legal and public policy experts, of which I am a member. The Compliance Oversight Team reviews these services to insure compliance with Section 272(b)(5) and the nondiscrimination safeguards included in Section 272(c). The charter of the Compliance Oversight Team, which describes its responsibilities, is included in Exhibit MES-5.

The BOC will represent transactions on the Qwest Communications International, Inc. Internet site by posting agreements, work orders and task orders within ten (10) days of being executed by both parties. Collectively, these agreements will contain service descriptions, terms and conditions, as well as the rates used for billing transactions between the BOC and the 272 Affiliate for services performed. To date, Qwest Corporation and Qwest Communications Corporation have two agreements, over twenty work orders, and task orders executed to document the arm's length relationship. All existing work orders and task orders are available for public inspection and posted on the Internet, as required, at the Qwest Communications International, Inc. Internet Home Page at http://www.qwest.com/about/policy/docs/qcc.overview.html, the contents of which are intended to be a part of this record. Past transactions including tariffed services and asset transfers are also posted on this web site.

The BOC has made Section 272 transactions available for public inspection since the FCC's Accounting Safeguards Order, issued August 12, 1997. Upon issuance of FCC Order No. 96-150, the BOC captured transactions dating back to February 8, 1996, the date of the Telecommunications Act of 1996. Although some transactions have been removed from the web site because they were terminated or superceded by subsequent agreements, the transactions are still available for public inspection at the BOC's principal place of business.

The FCC evaluates the sufficiency of a BOC's Internet disclosures by referring to its ARMIS filings, CAM and its CAM Audit workpapers.[10] The BOC has performed these reconciliations for Qwest Long Distance for the year ended December 31, 2000 to ensure that they agree. These reconciliations will be performed on an annual basis. In addition, the FCC notes that postings will undergo "a thorough and systematic review in the Section 272(d) Biennial Audit, which will insure that any failure to post sufficient detail are identified in time for remedial action".[11]

In summary, the BOC and the 272 Affiliate have processes in place to satisfy the provisions of Section 272(b). They operate independently in compliance with the Non-Accounting Safeguards Order, CC Docket 96-149; maintain separate books and records; have separate officers, directors, and employees; and obtain debt financing independently. The BOC also satisfies the FCC's requirements for affiliate transactions. Transactions between the BOC and the 272 Affiliate are tariffed and/or represented by contracts that are made

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[10] *Bell Atlantic New York Order,* ¶ *411, SBC Texas Order,* ¶*403*

publicly available and will be posted on the Internet. These transactions are accounted for in compliance with FCC rules as described in Part 32, Section 32.27, and the Accounting Safeguards Order.

**The BOC has Processes in Place to Satisfy Section 272(c) - Nondiscrimination Safeguards**

Section 272(c) requires the BOC to treat the 272 Affiliate in the same manner it treats other interexchange carriers. Section 272(c)(1) prohibits the BOC from discriminating between the 272 Affiliate and any other IXC in the provision or procurement of goods, services, facilities, and information, or in the establishment of standards.

The BOC is committed to providing its services to the 272 Affiliate on a nondiscriminatory basis. The 272 Affiliate is required to contact its IXC Sales Executive Team representative at the BOC to obtain services available to every interexchange carrier. Standard offerings provided to the 272 Affiliate will be extended to unaffiliated interexchange carriers under the same terms and conditions, and at the same rates. Non-standard services and services that have not previously been offered outside the corporate family undergo a review process before being offered to the 272 Affiliate on a nondiscriminatory basis.

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[11] *Bell Atlantic New York Order, ¶ 412, SBC Texas Order, ¶405, SBC Kansas/Oklahoma Order, ¶260*

The 272 Affiliate does not currently have access to the BOC's Operation Support Systems ("OSS"). These systems are used to support local retail efforts (e.g., ordering and pre-ordering interfaces, repair and maintenance, etc.) related to local exchange services, and are available only to Competitive Local Exchange Carriers ("CLECs"). If the 272 Affiliate were to obtain CLEC status at some time in the future, the BOC would require it to access OSS interfaces in the same manner as other CLECs. This would be in keeping with the BOC's current practice, which requires the 272 Affiliate to access services through its IXC Sales Executive Team representative.

Each non-tariffed service available to the 272 Affiliate is reduced to writing in a stand-alone contract, or MSA and associated work order. With the exception of joint marketing services, which will not be subject to nondiscrimination, these services will be also available to unaffiliated entities under the same terms, conditions and at the same rates. All future transactions between the BOC and the 272 Affiliate will also be reduced to writing and made available on the Internet.

The BOC and the 272 Affiliate also purchase services from a shared service affiliate, the Services Company, which provides services to the Qwest family of companies. *See* Exhibit MES-6 for a current list of shared services provided to the BOC. These services satisfy the FCC's requirements by being accounted for under the appropriate non-structural safeguards.[12]

In the normal course of business, when the 272 Affiliate identifies a need for goods, facilities, services, or information (collectively "services") from the BOC, it submits a service request form to its IXC Sales Executive Team representative. The IXC account representative acts as the Single Point of Contact ("SPOC") on behalf of the BOC. For service requests not covered by an existing tariff, MSA and related Work order, or stand-alone contract, the SPOC submits the request to the FCC/Regulatory Compliance Manager ("Compliance Manager") for review. The Compliance Manager then contacts the 272 Affiliate employee making the request and the affected BOC business unit to gather additional information. Once the service request is clarified, the Compliance Manager facilitates a meeting with the Compliance Oversight team. This Compliance Oversight team evaluates the request and assesses the BOC's nondiscrimination obligation concerning the requested service. The Compliance Oversight team provides an obligation assessment to the affected BOC business unit, which then decides whether it will provide the service to the 272 Affiliate on a nondiscriminatory basis, or not provide it at all. This rigorous review process ensures that the BOC satisfies the requirement to provide services to the 272 Affiliate on a nondiscriminatory basis as required under Section 272(c)(1) and is

[12] *SBC Texas Order, ¶ 408, SBC Kansas/Oklahoma Order, ¶ 261*

illustrated in Exhibit MES-7. This process further ensures that all services provided to the 272 Affiliate are submitted such that a work order can be written and priced accordingly, fulfilling the requirement under Section 272(b)(5).

Section 272(c)(2) requires the BOC to account for all transactions with the 272 Affiliate in accordance with accounting principles designated or approved by the FCC. The BOC satisfies this requirement for transactions with the 272 Affiliate.

The BOC's books are kept in compliance with GAAP and regulatory accounting rules as required by the FCC. Affiliate transactions are recorded in compliance with Part 32, Uniform System of Accounts for Telecommunications Companies, specifically the Affiliate Transactions rules of Part 32.27 as modified by the FCC in the Accounting Safeguards Order, and Part 64, Subpart 1, Allocation of Cost.

The FCC has promulgated affiliate transactions rules that were amended in the Accounting Safeguards Order. The rules apply the following valuation hierarchy to the BOC's transactions with the 272 Affiliate: 1) tariff rates apply to tariffed services; 2) for non-tariffed services, Prevailing Company Price ("PCP") is presumed for services subject to the nondiscrimination rules of Section 272 because rates must be made available to both the 272 Affiliate and third parties on similar terms; and 3) services that are neither tariffed nor offered at PCP are valued at fully distributed cost ("FDC") or fair market value ("FMV"), whichever is higher for services provided to the 272 Affiliate by the BOC, and whichever is lower for services provided to the BOC by the 272 Affiliate.

The BOC files reports publicly via the FCC's Automatic Reporting and Management Information Systems ("ARMIS") each year. The audit opinion of the BOC's auditor, Arthur Andersen, which is filed with the ARMIS Report 43-03 (also known as the Joint Cost Report), certifies that the BOC complies with GAAP and the FCC accounting rules. While this audit, known as the Joint Cost Audit, does not focus specifically on the relationship between the BOC and the 272 Affiliate, the sample base of affiliate transactions include a review of general administrative type services that are provided between the two companies. Therefore, the statement of compliance rendered by Arthur Andersen as part of that audit is general in nature and concludes, based on the sample, that the BOC complies with the affiliate transactions rules in all material respects. As I indicated earlier in my affidavit, the FCC has considered historical results of the annual Joint Cost Audit in order to assess Section 272 Compliance in Section 271 applications.[13] Neither the FCC's review of the BOC's accounting information nor the audits conducted by independent auditors have revealed

[13] *Bell Atlantic New York Order,* ¶ *411, SBC Texas Order,* ¶ *406*

discrepancies with the BOC's corporate accounting procedures for affiliate transactions in the past three years.[14]

Additionally, the BOC files a 10K report with the Securities and Exchange Commission each year. The 10K includes an auditor's opinion stating that the BOC's financial statements are prepared in compliance with GAAP. The BOC also files its CAM with the FCC annually. These filings and the Joint Cost audit provide assurance that the BOC accounts for all transactions in accordance with the accounting principles approved by the FCC.

In summary, the BOC has provided evidence that it is prepared to comply with Section 272(c). The 272 Affiliate must obtain services like any other IXC. These services are documented, priced, and posted according to the requirements set out in Section 272 (b)(5). Therefore, the BOC has sufficiently demonstrated that it has implemented the proper internal controls and processes to satisfy the requirements of Section 272(c).[15]

**The BOC will Satisfy Section 272(d) - Biennial Audit**

Section 272(d) requires that, once the BOC receives 271 authority, it must obtain and pay for a joint Federal/State audit every two years. An independent auditor must determine whether the company has complied with the

[14] *SBC Texas Order*, ¶ 406

requirements of Section 272 and the regulations promulgated under Section 272. In particular, the audit is designed to determine whether the company has complied with the separate accounting requirements of Section 272(b). The FCC has chosen to fulfill the audit requirement by selecting a type of audit known in the accounting industry as an "agreed-upon-procedures" audit. A joint Federal/State biennial audit oversight team will determine the scope of each audit. The biennial audit is required in addition to the annual Joint Cost audit. The Biennial Audit procedures are attached as Exhibit MES-8. These procedures will serve as a template or starting point for the Federal/State biennial audit oversight team and the independent auditor.

The first biennial audit will be conducted 12 months after the BOC receives its first Section 271 approval. The BOC will engage an independent auditor to conduct the biennial audit according to the audit requirements agreed upon by the Federal/State biennial audit oversight team. The BOC will cooperate to the fullest extent possible in providing any data necessary to assist the auditor in accomplishing its objective. The results of these audits will be provided to the FCC and state regulatory commissions as required.

The auditor and Arizona Staff will have access to the financial accounts and records of the BOC and the 272 Affiliate, as necessary, to verify that all

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[15] *SBC Texas Order*, ¶ *410*

transactions conducted between them are appropriate under the specific requirements of Section 272. The FCC and Arizona Staff will have access to the working papers and supporting materials of the auditor who performs the audit with appropriate protection for proprietary information.

The biennial audit acts as an additional control to ensure the BOC complies with the requirements in Section 272. The FCC has placed reliance on the existence of the biennial audit in consideration of Section 271 applications.[16]

**The BOC Complies with Section 272(e) - Fulfillment of Certain Requests**

Section 272(e) contains four express requirements ensuring that the BOC treats the 272 Affiliate similarly to other IXCs with respect to special and switched access.

Specifically, Section 272(e)(1) provides for nondiscriminatory provision of telephone exchange service and exchange access for unaffiliated entities;

Section 272(e)(2) prohibits the BOC from providing any facilities, services, or information concerning its provision of exchange access to the 272 Affiliate unless such facilities, services, or information are made available to other providers of interLATA services under the same terms and conditions;

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16 *Bell Atlantic New York Order*, ¶ *412*, *SBC Texas Order*, ¶ *406*, *SBC Kansas/Oklahoma Order*, ¶*260*

Section 272(e)(3) requires the BOC to charge the 272 Affiliate, or impute to itself, rates for telephone exchange service and exchange access that are no less than the amount that would be charged to any unaffiliated interexchange carrier for such service; and,

Section 272(e)(4) allows the BOC to provide in-region interLATA or intraLATA facilities or service to the 272 Affiliate only if such services or facilities are made available to all carriers at the same rate and under the same terms and conditions.

The BOC does not and will not discriminate in favor of the 272 Affiliate in the provision of telephone exchange service or exchange access. Upon obtaining Section 271 approval in Arizona, the 272 Affiliate will obtain such services from the BOC under the same tariffed terms and conditions as are available to unaffiliated interexchange carriers. The 272 Affiliate will contact its Sales Executive Team representative for these tariffed services through the same procedures that are available to other interexchange carriers. The IXC representatives will process orders in a nondiscriminatory manner.

## Section 272(f) - Sunset

Section 272(f)(1) provides sunset provisions for manufacturing and long distance. It requires that the provisions of Section 272 (other than subsection (e)) shall cease to apply three years after the date that the BOC or the 272 Affiliate is authorized to provide in-region interLATA services, unless the FCC extends the period by rule or order.

Section 272(f)(2) provides sunset provisions for interLATA information services of the BOC four years after the enactment of the Act, unless the FCC extends the period by rule or order.

Section 272(f)(3) preserves the authority of the FCC to prescribe safeguards consistent with the public interest, convenience, and necessity under any other section of the Act.

The BOC will adhere to the requirements of Section 272(c) through Section 272 (f) of the Act until those provisions have expired.

**The BOC is Prepared to Satisfy Section 272(g) - Joint Marketing**

Section 272(g)(1) prohibits the 272 Affiliate from marketing or selling telephone exchange services of the BOC except under the same conditions as are available to other similarly situated entities. The 272 Affiliate will not market telephone exchange services unless the BOC permits other entities offering the same or similar services to market and sell its telephone exchange services.

Section 272(g)(2) prohibits the BOC from marketing or selling in-region interLATA services provided by the 272 Affiliate within Arizona until the 272 Affiliate is authorized to provide in-region interLATA services Arizona. However, it is critical to recognize that once the BOC obtains Section 271 approval, the BOC and the 272 Affiliate may jointly market services without regard to the nondiscrimination provisions of Section 272(c).

In compliance with the terms of the divestiture plan as approved by the FCC on June 26, 2000, the BOC does not currently market or sell in-region interLATA services, and will not until the 272 Affiliate is authorized to provide such services under Section 271. When permitted, the BOC and the 272 Affiliate will market and sell in-region interLATA services pursuant to arm's length agreements, reduced to writing, available for public inspection, and accounted for in accordance with the then effective rules required by the FCC.

The BOC understands the requirements of Section 272(g) and will comply with these provisions.

**The BOC Satisfied Section 272(h) - Transition**

Section 272(h) gave the BOC one year from the date of enactment of the Act to comply with the requirements of Section 272. This transition period was provided in the event that the BOC, formerly U S WEST Communications, Inc., was engaged in interLATA information or interLATA long distance services, as well as manufacturing. The BOC has satisfied this section of the Act because U S WEST Communications, Inc. was not engaged in any of these activities in February 1996. Further, because of the Qwest-U S WEST merger, Qwest Communications International, Inc. divested itself of its in-region interLATA business.[17]

## VI. EDUCATION AND TRAINING EFFORTS TO ENSURE COMPLIANCE

The BOC has instituted process changes to ensure that it conducts business subject to the provisions of Section 272. The BOC has also continued to inform and educate employees about those process changes, as well as the Act and related FCC Orders.

Each year employees in the Qwest family of companies are required to undergo annual corporate Code of Conduct training, and to certify their understanding of and compliance with company policies including regulatory requirements. This annual compliance training includes a reference to affiliate transactions, as well as other requirements concerning appropriate employee behavior. See Exhibit MES-9.

[17] *Divestiture Order*

Annual Code of Conduct training was supplemented with specific Section 272 requirements and delivered to the BOC, the 272 Affiliate, and Services Company management employees via email with a link to the company's internal web site and is attached as Exhibit MES-10. This training emphasizes the Section 272 transaction and nondiscrimination requirements and provides an email mailbox specifically for Section 272 related questions called "ask272@qwest.com."

The BOC is also conducting targeted training to employees who conduct business with the 272 Affiliate, specifically the Sales Executive Team representatives. See Exhibit MES-11. This training reinforces the process the 272 Affiliate must go through to order service from the BOC as detailed earlier in my affidavit.

BOC employees must treat the 272 Affiliate like any other IXC. To reinforce employee awareness and facilitate nondiscrimination, the BOC employees and 272 Affiliate employees will be physically separated. This separation will be accomplished by using separate buildings, separate floors, or floors with restricted access. In addition, the Services Company has deployed a color coding scheme such that BOC, 272 Affiliate, and Services Company employees display different colors on employee badges and office name plates to indicate the company they work for. The "blue" dot on my badge and name plate distinguishes me as a BOC employee.

Qwest Communications International, Inc. also offers a Corporate Compliance Advice line for reporting all compliance issues, including any suspected violations of Section 272. The hotline number is 1-800-333-8938. Any employee can call this number for answers to corporate compliance questions or to report suspected violations.

In 1998, the BOC began implementing an education plan specifically targeted at increasing employee awareness and understanding of Section 272 requirements and this education effort is ongoing. In addition, for employees involved in processing affiliate transactions, the Methods for Affiliate Transactions ("MAT") training manual includes Section 272 specific instructions. The MAT is attached as Confidential Exhibit MES-12. The Services Company, the BOC, and the 272 Affiliate continue to hold one on one training sessions as needed to focus specifically on the compliance requirements related to Section 272 and the Accounting Safeguards Order.

The BOC will continue to ensure that once Section 271 approval is obtained, business with the 272 Affiliate will be conducted in compliance with Section 272.

## VII. CONCLUSION

The FCC's stated purpose in developing a record of Section 272 compliance in the BOC's Section 271 application in Arizona, is to review past and present practices in order to make a predictive judgement that the BOC is prepared to carry out the requirements in Section 272. Present practices as described in my affidavit confirm that the BOC's relationship with the 272 Affiliate will be consistent with Section 272 requirements. By providing sufficient evidence that it is prepared to conduct business subject to the rules of Section 272, the BOC has satisfied the FCC's test for Section 272 approval.

The BOC has demonstrated that it understands its obligations under Section 272. In addition, the BOC has demonstrated that it has established sufficient controls to comply with each specific requirement of Section 272 upon approval for the 272 Affiliate to offer originating interLATA services in Arizona.

This concludes my affidavit.

**BEFORE THE ARIZONA CORPORATION COMMISSION**

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

| | |
|---|---|
| IN THE MATTER OF U S WEST COMMUNICATIONS, INC.'s COMPLIANCE WITH SECTION 271 OF THE TELECOMMUNICATIONS ACT OF 1996 | DOCKET NO. T-000000A-97-0238<br>**Affidavit of Marie E. Schwartz** |

STATE OF NEBRASKA )
)
COUNTY OF DOUGLAS )

Marie E. Schwartz, of lawful age being first duly sworn, deposes and states:

1. My name is Marie E. Schwartz. I am Director for Qwest Corporation, located in Omaha, Nebraska.

2. Attached hereto and made a part hereof for all purposes is my Affidavit.

3. I hereby swear and affirm that my answers contained in the attached Affidavit to the questions therein propounded are true and correct to the best of my knowledge and belief.

(NAME)

SUBSCRIBED AND SWORN to before me this 21 day of March, 2001.

Teresa M Peatrowsky
NOTARY PUBLIC

GENERAL NOTARY-State of Nebraska
TERESA M. PEATROWSKY
My Comm. Exp. March 17, 2004

My Commission Expires:

March 17, 2004

**BEFORE THE ARIZONA CORPORATION COMMISSION**

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

| | |
|---|---|
| **IN THE MATTER OF U S WEST COMMUNICATIONS, INC.'S COMPLIANCE WITH SECTION 271 OF TELECOMMUNICATIONS ACT OF 1996** | **DOCKET NO. T-00000B-97-238** |

**EXHIBITS OF**

**MARIE E. SCHWARTZ**

**QWEST CORPORATION**

**MARCH 26, 2001**

# INDEX OF EXHIBITS

**QWEST CORPORATE STRUCTURE**

# Qwest Corporate Structure
# At 3/19/01

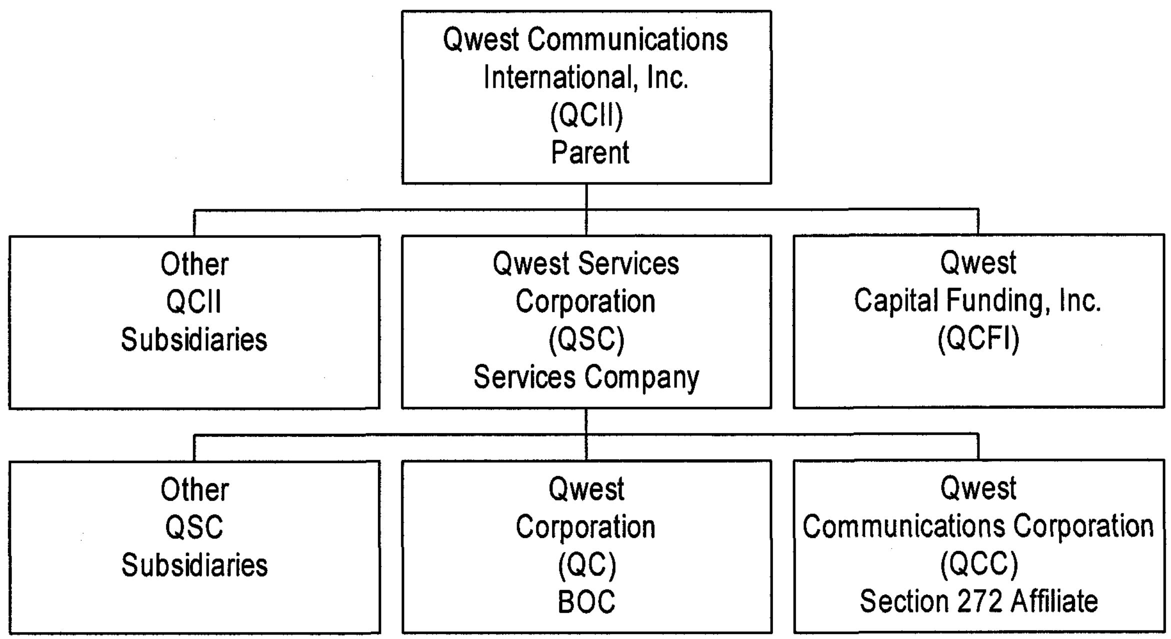


EXHIBIT MES-2

Confidential and Proprietary

(REDACTED VERSION)

## QWEST CORPORATION
## OFFICERS

- James A. Smith – President
- Robert Tregemba – Senior Vice President – Network
- Mark Schumacher – Vice President & Controller
- Beth Halverson – Vice President – Wholesale
- Mark Pitchford – Vice President – Retail Markets
- Kamelia Davidson – Assistant Secretary
- Jennifer Pettus – Assistant Secretary

## DIRECTORS

- Augustine M. Cruciotti – Director
- James A. Smith – Director

Arizona Corporation Commission
Docket No. 00000B-97-0238
Qwest Corporation
Exhibits of Marie E. Schwartz
Exhibit MES-4

# MASTER SERVICES AGREEMENT

# MASTER SERVICES AGREEMENT

# BETWEEN

# QWEST CORPORATION

# AND

# QWEST COMMUNICATIONS CORPORATION

## TABLE OF CONTENTS



## EXHIBIT

**MASTER SERVICES AGREEMENT**
**QWEST CORPORATION**
**AND**
**QWEST COMMUNICATIONS CORPORATION**

THIS AGREEMENT is made as of the first day of Jan 2001 by and Between.

**Qwest Corporation** (hereinafter "Qwest Corp") and:

**Qwest Communications Corporation** (hereinafter "QCC")

The parties agree as follows:

**ARTICLE 1**
**DESCRIPTION OF SERVICES**

A. Qwest Corp agrees to provide services ("Services") to QCC as documented in a Work Order (incorporated herein as Exhibit A), and QCC agrees to pay for these services consistent with the Work Order.

B. The Work Order shall include at a minimum the following information:

- Description/Location of Service/s Requested
- Dates of Commencement and Completion of Service/s Requested
- Units and Price per Unit for Requested Service/s
- Costing Methodology
- Expected Frequency
- Special Equipment, if required
- Numbers (range) and type of personnel in work group to perform functions.

C. The parties shall comply with the Qwest Corporation Technology Fair Compensation Policy when Services requested include technical information, software, inventions, functional specifications and other researched or developed products or Services.

**ARTICLE 2**
**TERM**

This Agreement shall become effective as of 1-19-01 and will remain in full force and effect until either party provides sixty (60) calendar days written notice of termination to the other party. If this Agreement is terminated prior to the completion of any Services, QCC shall pay for all charges billed and owing to Qwest Corp for Services performed up to and including the date of termination, provided Services performed are in accordance with the terms and conditions of this Agreement. Qwest Corp shall complete any such work in progress prior to the termination of the Agreement, and Qwest Corp shall perform such services in accordance with the terms and conditions of this Agreement.



January 18, 2001/dbd/MSA Master
Qwest Corporation/Qwest Communications Corporation
CDS-010117-0012/c
3

## ARTICLE 3
## BILLING

A. Qwest Corp shall submit invoices to QCC for Services provided in accordance with the terms and conditions of this Agreement on a monthly basis unless otherwise specified in the Work Order. QCC shall notify Qwest Corp of the address to which invoices are to be sent.

B. Invoices shall include the following billing information as a minimum:

1. Invoice number
2. Payment due date
3. Date of Service
4. Description of charges
5. Applicable taxes
6. Total charge

## ARTICLE 4
## INDEPENDENT CONTRACTOR

Qwest Corp hereby declares and agrees that it is engaged in an independent business and will perform its obligations under this Agreement as an independent contractor and not as the agent or employee of QCC; that Qwest Corp does not have the authority to act for QCC or to bind QCC in any respect whatsoever, or to incur any debts or liabilities in the name of or on behalf of QCC; that any persons provided by Qwest Corp shall be solely the employees or agents of Qwest Corp under its sole and exclusive direction and control. Qwest Corp and its employees or agents are not entitled to QCC's unemployment insurance benefits as a result of performing under this Agreement. Qwest Corp shall be solely responsible for all matters relating to payment of its employees and agents, including compliance with worker's compensation, unemployment, disability insurance, social security withholding, and all other federal, state and local, rules and regulations. Qwest Corp shall indemnify and hold QCC harmless from any causes of action arising out of Qwest Corp's liability to its employees or agents.

## ARTICLE 5
## PROPRIETARY INFORMATION

Solely for the purposes of providing Services under this Agreement, each party grants to the other a nonexclusive, nontransferable license to use information provided by the other. Neither party shall publish, circulate, or otherwise distribute or disclose any such information that is marked proprietary or confidential to any third party other than its affiliates and its consultants who have executed a confidentiality agreement unless and until (1) the original disclosing party has consented to such disclosure and such third party executes a confidentiality agreement containing terms substantially similar to the ones contained in this Agreement, (2) such information has come into the public domain through no fault of QCC or Qwest Corp, (3) such information is otherwise in the possession of QCC or Qwest Corp free of any obligation of confidentiality, or (4) such party is required to do so by regulatory mandate.

Any third party information provided by QCC or Qwest Corp to the other party shall be deemed QCC or Qwest Corp information according to its source and shall be treated accordingly. If such information is subject to a separate agreement with a third party, the party receiving information agrees to hold and use the information in strict accordance with the separate agreement, provided it has knowledge of the separate agreement, unless otherwise instructed in writing by the party providing the information.

## ARTICLE 6
## INDEMNIFICATION

A. Qwest Corp shall indemnify and hold harmless QCC, its owners, parents, subsidiaries, affiliates, agents, directors and employees against all Liabilities to the extent they arise from or in connection with: (1) the fault or negligence of Qwest Corp, its officers, employees, agents, subcontractors and/or representatives; and/or (2) the furnishing, performance or use of any Services under this Agreement or any product liability claims relating to any Services; and/or (3) failure by Qwest Corp, its officers, employees, agents, subcontractors and/or representatives to comply with the Article entitled "Compliance with Laws;" and/or (4) assertions under workers' compensation or similar employee benefit acts by Qwest Corp or its employees, agents, subcontractors, or subcontractors' employees or agents.

B. QCC shall indemnify and hold harmless Qwest Corp, its owners, parents, subsidiaries, affiliates, agents, directors and employees against all Liabilities to the extent they arise from or in connection with: (1) the fault or negligence of QCC its officers, employees, agents, subcontractors and/or representatives; and/or (2) the furnishing, performance or use of any Services under this Agreement or any product liability claims relating to any Services; and/or (3) failure by QCC, its officers, employees, agents, subcontractors and/or representatives to comply with the Article entitled "Compliance with Laws," and/or (4) assertions under workers' compensation or similar employee benefit acts by QCC or its employees, agents, subcontractors, or subcontractors' employees or agents.

## ARTICLE 7
## LIMITATION OF LIABILITY

Neither party is liable to the other for consequential, incidental, indirect, punitive or special damages, including commercial loss and loss profits, however caused and regardless of legal theory or foreseeability, directly or indirectly arising under this Agreement. Notwithstanding the foregoing, the parties are liable in accordance with the provisions of this Agreement and this limitation of liability shall not apply to the indemnification obligations under this Agreement.

## ARTICLE 8
## REGULATORY SUPPORT

This agreement shall comply with all state statutes and regulations, and Qwest Corp shall bear the financial risk if it does not. The parties agree that to the extent Qwest Corp is under the regulation of federal or state agencies, QCC will provide cooperation and support for Qwest Corp's response to regulatory inquiries or discovery requests concerning this Agreement or relationships derived from this Agreement.

## ARTICLE 9
## COMPLIANCE WITH LAWS

A. The parties shall obtain and maintain at its own expense all permits and licenses and pay all fees required by law with respect to any Services and/or performance of this Agreement. The parties shall, in connection with performance of and Services under this Agreement, comply with all applicable federal, state, and local laws, ordinances, rules, regulations, court orders, and governmental or regulatory agency orders ("Laws"), including, without limitation:

1. The Communications Act of 1934, as amended and all rules, regulations and orders issued in connection with that Act and this Agreement shall, to the greatest extent possible, be construed to be consistent with the same.

2. Laws relating to non-discrimination in employment, fair employment practices, equal employment opportunity, employment opportunities for veterans, non-segregated facilities, and/or employment of the disabled, except to the extent a party is exempt therefrom; and the Laws and contract clauses required by those Laws to be made a part of this Agreement are incorporated herein by this reference.

3. The Laws referred to in the Article entitled "Independent Contractor".

B. Qwest Corp acknowledges that Purchase(s) and/or Confidential Information ("Exports") may be subject to U.S. and applicable foreign export laws or regulations. Qwest Corp shall perform its obligations under this Agreement in a manner consistent with the requirements of all applicable U.S. and all applicable foreign laws and regulations, including the U.S. export laws and regulations, the Foreign Corrupt Practices Act, and anti-boycott laws, and U.S. export laws and regulations prohibiting the unauthorized export or re-export of certain items to residents of countries listed in U.S. Export Administration Regulations.

C. The requirements of this Article shall survive the expiration, termination or cancellation of this Agreement. All provisions of this Article shall also apply to all subcontractors, and similar terms shall be included in all Qwest Corp's contracts with subcontractors.

## ARTICLE 10
## NOTICES

Where written notices, demands, or other communications are required under this Agreement, they shall be deemed duly given when made in writing and delivered to the other party's address listed below. Addresses may be changed by written notice to the other party. Notices shall be delivered by hand, overnight courier service or certified mail, return receipt requested. Notification will be deemed to have taken place upon delivery, if delivery is by hand, overnight courier service or five (5) calendar days after posting if sent by certified mail.

| | |
|---|---|
| Qwest Communications Corporation<br>Attention: Contract Manager<br>Contract Development & Services<br>7800 East Orchard Road, Suite 250<br>Englewood, CO 80111-2526 | Qwest Corporation<br>Attention: Contract Specialist<br>Contract Development & Services<br>7800 East Orchard Road, Suite 250<br>Englewood, CO 80111-2526 |

## ARTICLE 11
## DISPUTE RESOLUTION

A. Any claim, controversy or dispute which arises between the parties, their agents, employees, officers, directors or affiliates ("Dispute") which the parties are unable to settle through consultation and negotiation may be mediated under the Commercial Mediation Rules of the American Arbitration Association ("AAA") by a mutually acceptable mediator. Any Dispute which cannot be resolved through negotiation or mediation shall be resolved by binding arbitration as provided in this Article. The arbitrability of claims shall be determined under the Federal Arbitration Act, 9 USC Secs. 1-16. Notwithstanding the foregoing, the parties may cancel or terminate this Agreement in accordance with its terms and conditions without being required to follow the procedures set forth in this Article.

B. A single arbitrator engaged in the practice of law, who is knowledgeable about the subject matter of this Agreement and the matter in Dispute, shall conduct the arbitration under the rules of the AAA then in effect, except as otherwise provided herein. The arbitrator shall be selected in accordance with AAA procedures from a list of qualified people maintained by the AAA. The arbitration shall be conducted in Denver, Colorado, and all expedited procedures prescribed by the AAA rules shall apply. The laws of Colorado shall govern the construction and interpretation of this Agreement. The arbitrator's decision and award shall be final, conclusive and binding, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

C. Either party may request from the arbitrator injunctive relief to maintain the status quo until such time as the arbitration award is rendered or the Dispute is otherwise resolved. The arbitrator shall not have authority to award punitive damages. Each party shall bear its own costs and attorneys' fees, and the parties shall share equally the fees and expenses of the mediator and arbitrator.

D. If any party files a judicial or administrative action asserting claims subject to arbitration, as prescribed herein, and another party successfully stays such action and/or compels arbitration of said claims, the party filing said action shall pay the other party's costs and expenses incurred in seeking such stay and/or compelling arbitration, including reasonable attorneys' fees.

E. Qwest Corp agrees that in the event of any Dispute between the parties, it will continue to provide Services without interruption.

## ARTICLE 12
## SEVERABILITY

Any term or provision of this Agreement which is held to be invalid, void, unenforceable or illegal will in no way affect, impair or invalidate the remaining terms or provisions, which will remain in full force and effect, consistent with the original intent of the parties. However, if such provision is an essential element of the Agreement, the parties shall promptly attempt to negotiate a substitute therefore.

**Qwest Corporation**

[illegible]
Signature

[illegible]
Name Printed or Typed

[illegible]
Title

[illegible]
Date

**Qwest Communications Corporation**

Judith L. Brunsting
Signature

Judith L. BRUNSTING
Name Printed or Typed

Executive Director
Title

1/19/01
Date



January 18, 2001/dbd/MSA Master
Qwest Corporation/Qwest Communications Corporation
CDS-010117-0012/c
8

# SUMMARY OF AFFILIATE TRANSACTIONS

| | | | |
|---|---|---|---|
| ☐ **Original Summary of Services** | ☐ **Amendment ( #  )** | ☐ **Terminated Services** | ☐ **Asset Transfer** |

**For services provided or assets transferred: from ___to___ Qwest Corporation to __from__ _____, a Qwest affiliate.**
**Is the Qwest affiliate a Section 272 subsidiary: ___**

**Description of Services Provided or Assets Transferred:**

**Effective Date:** **Termination Date** (if applicable):

**Estimated Annual Revenues/Expenses to Qwest Corporation or Gross Book Value, listed by Primary USOA Account:**
Amount: Account:
$

**Methodology of Assigning Qwest Revenues/Expenses to the States:**
☐ Standard company prorates
☐ Other (Please explain below and specify the percentage assigned to each state.)

**Assets transferred at higher__or lower ___of net book value or fair market value.**
Net book value by state: $
Fair market value by state: $

**Expected Pricing Methodology for Services:**
___Tariff
___Rates in publicly filed agreements submitted to a state commission pursuant to Section 252(e)
___Prevailing Company Price
___Higher of Fully Distributed Cost or Fair Market Value
___Lower of Fully Distributed Cost or Fair Market Value

For Transactions with Section 272 Subsidiaries, Please Provide the Following Information:

Special Equipment:
Number of Personnel Required:
Title(s) of Personnel and Level of Expertise:
Expected Frequency: Daily
Pricing: See addendum for the actual prices charged.
Approved By:

| Qwest Corporation | Name of Qwest Affiliate: |
|---|---|
| Signed: __________ | Signed: __________ |
| Printed Name: __________ | Printed Name: __________ |
| Title: __________ | Title: __________ |
| Date: __________ | Date: __________ |

**Comments:**

Arizona Corporation Commission
Docket No. T-00000B-97—238
Qwest Corporation
Exhibits of Marie E. Schwartz
Exhibit MES-5

# COMPLIANCE OVERSIGHT TEAM CHARTER

# 272 Compliance Oversight Team Charter

**Date Established:** October 1, 2000. Replaces 272 Working Team

**Membership:**

Betty Knapp – Director, FCC Regulatory Accounting
Patricia Taylor – Director, State Regulatory Accounting
Blair Rosenthal – Legal Counsel
Marie Schwartz – 272 Witness
Kathy Little – 272 Support Team
Robin Terry – 271/272 Support Team
Scott Hamilton – Affiliate Transaction Support
Debi Adams – Compliance Manager, Policy and Law
Carol Schaben – 272 Support Team
Joyce McDonald – 272 Support Team

**Core Objectives:**

1. Facilitate Overall compliance integration of new 272 subsidiary

2. Review all requests for services from 272 subsidiary for compliance with:
   - Affiliate Transaction Rules
   - Nondiscrimination Safeguards

3. Review web posting processes for compliance with:
   - 10 day rule
   - Adequate disclosure
   - Accuracy

4. Review processes to insure separate officers, directors and employees:

5. Insure appropriate documentation is generated for all review activities.

**Meeting Schedule:** Every other Thursday at 2:00 Mountain or as needed

Arizona Corporation Commission
Docket No. T-00000B-97—238
Qwest Corporation
Exhibits of Marie E. Schwartz
Exhibit MES-6

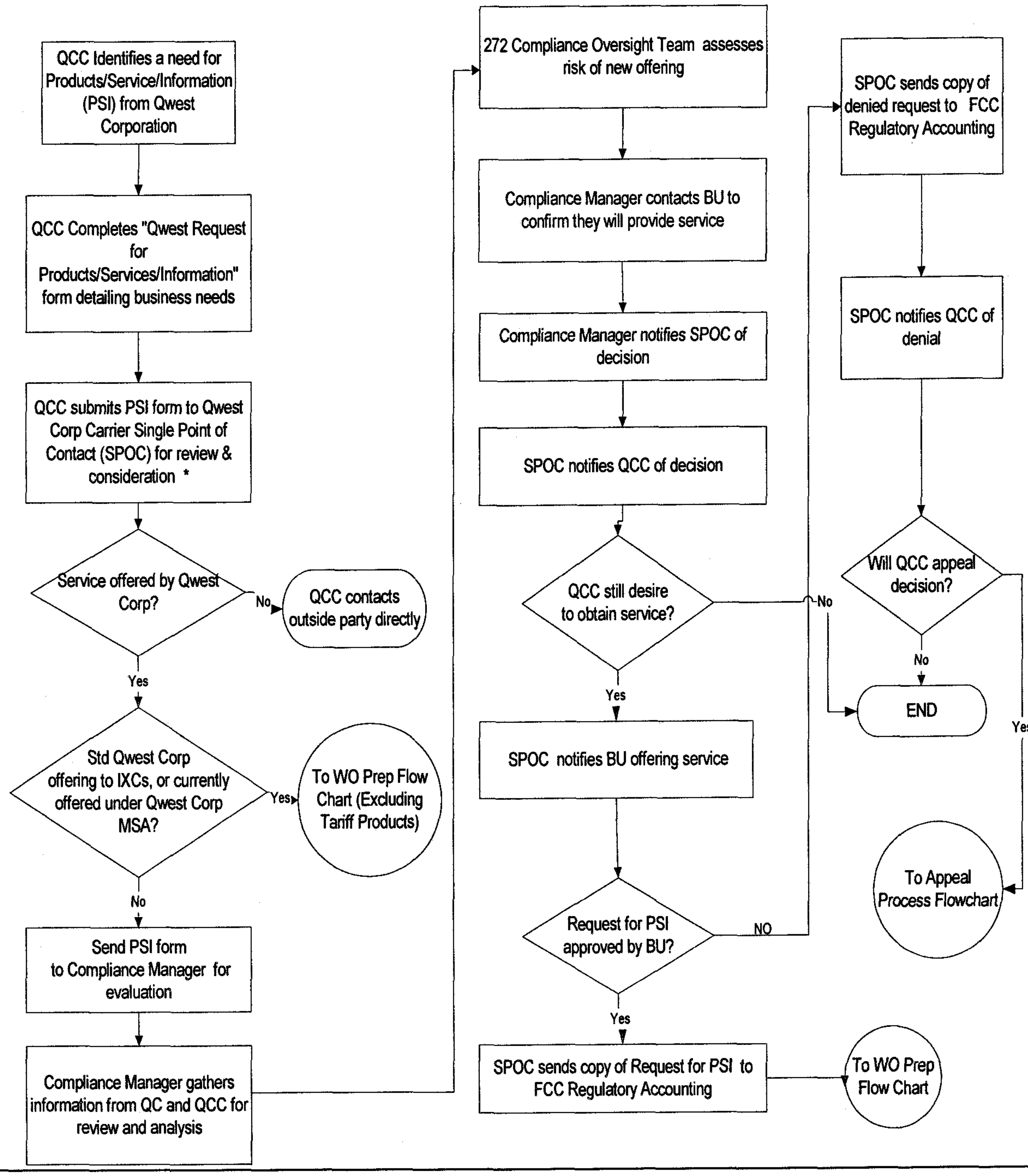
# THE BOC SERVICES PURCHASED FROM THE SERVICES COMPANY

Arizona Corporation Commission
Docket No. T-00000B-97—238
Qwest Corporation
Exhibits of Marie E. Schwartz
Exhibit MES-7

# PROCESS FLOWCHART FOR THE 272 AFFILIATE SERVICE REQUESTS

## QWEST CORPORATION/ QWEST COMMUNICATIONS CORPORATION (QCC)
## PROCESS FLOW FOR PRODUCTS/SERVICE/INFORMATION REQUESTS

03/07/01




* Same process used by 3rd party requests for Products/Services/Information

Chart 1

Arizona Corporation Commission
Docket No. T-00000B-97—238
Qwest Corporation
Exhibits of Marie E. Schwartz
Exhibit MES-8

# BIENNIAL AUDIT PROCEDURES

# JOINT FEDERAL/STATE OVERSIGHT GROUP

# GENERAL STANDARD PROCEDURES
# FOR
# BIENNIAL AUDITS
# REQUIRED UNDER SECTION 272
# OF THE
# COMMUNICATIONS ACT OF 1934, AS AMENDED

As of December 16, 1998

# JOINT FEDERAL/STATE OVERSIGHT GROUP

GENERAL STANDARD PROCEDURES
FOR
BIENNIAL AUDITS
REQUIRED UNDER SECTION 272
OF THE
COMMUNICATIONS ACT OF 1934, AS AMENDED

TABLE OF CONTENTS

TABLE OF CONTENTS

## BIENNIAL ENGAGEMENT PROCEDURES

## INTRODUCTION

**Background**

1. Section 272(a) of the Communications Act of 1934, as amended, requires that a Bell Operating Company (BOC) set up one or more separate affiliates before engaging in manufacturing activities, in-region interLATA services, and interLATA information services. Also, before engaging in the provision of in-region interLATA services, a BOC or an affiliate of the BOC must meet the requirements of Section 271 of the Communications Act of 1934 and must receive approval by the Federal Communications Commission (FCC). A BOC required to operate a separate affiliate under Section 272 must obtain and pay for a joint Federal/State audit every two years.[1]

2. After having considered all types of audits and engagements performed by certified public accountants (CPAs) and the FCC staff's past experience in the Cost Allocation Manual (CAM) audits, we believe that it would be in the best interest of all the parties concerned that this audit be an Agreed-Upon Procedures (AUP) Engagement. The American Institute of Certified Public Accountants (AICPA) defines an AUP engagement as, "one in which a practitioner is engaged by a client to issue a report of findings based on specific procedures performed on the subject matter of an assertion."[2] The objective of an AUP engagement is to present specific findings to assist users in evaluating an entity's compliance with specified requirements. The users include the federal and state regulators as well as the companies responsible for obtaining and paying for the biennial audits.

3. As the primary users of the joint Federal/State biennial audit, the Federal/State Biennial Oversight Group (Oversight Group), which is comprised of staff members from state regulatory agencies and the FCC, is responsible for the nature, timing and extent of the AUP. The Oversight Group will be subdivided into Regional Oversight Teams (Oversight Teams), one for each Regional Bell Operating Company (RBOC). Each team will be comprised of two members from the FCC and members of the State

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[1] 47 U.S.C. § 272(d)

[2] AT § 600.03 Codification of Statements on Standards for Attestation Engagements, published by the American Institute of Certified Public Accountants.

Commissions who have chosen to participate in this project and who have jurisdiction over that RBOC. Each team is responsible for reviewing the conduct of the engagement and, after discussion with the BOC and its Section 272 affiliate, for directing the practitioner to take such action as the team finds necessary to achieve each objective. The text below provides the requirements for the engagement as listed in Section 53.209(b) of the FCC Rules and indicates the nature, timing and extent of the AUP for each requirement. It should be noted that AUP engagements are not based on the concept of materiality; therefore, the practitioner must report all errors or discrepancies discovered while performing the AUP engagement.

## COMPLIANCE REQUIREMENTS

4. The requirements for the biennial audits are contained in 47 U.S.C. Section 272(b), (c), and (e) of the Communications Act of 1934, as amended, and in 47 C.F.R. Section 53.209(b) of the FCC Rules and Regulations. Below is a listing of those requirements:

**Structural Requirements**

The separate affiliate required under Section 272 of the Act:

I. Shall operate independently from the Bell operating company;

II. Shall maintain books, records, and accounts in the manner prescribed by the Commission that are separate from the books, records, and accounts maintained by the Bell operating company;

III. Shall have officers, directors, and employees that are separate from those of the Bell operating company;

IV. May not obtain credit under any arrangement that would permit a creditor, upon default, to have recourse to the assets of the Bell operating company;

**Accounting Requirements**

The separate affiliate required under Section 272 of the Act:

V. Shall conduct all transactions with the Bell operating company on an arm's length basis with the transactions reduced to writing and available for public inspection.

The Bell operating company:

VI. Shall account for all transactions with the separate affiliate in accordance with the accounting principles and rules approved by the Commission.

**Nondiscriminatory Requirements**

The Bell operating company:

VII. May not discriminate between the separate affiliate and any other entity in the provision or procurement of goods, services, facilities, and information, or the establishment of standards;

VIII. Shall fulfill any requests from unaffiliated entities for telephone exchange service and exchange access within a period no longer than the period in which it provides such telephone exchange service and exchange access to itself or its affiliates;

IX. Shall not provide any facilities, services, or information concerning its provision of exchange access to the Section 272 affiliate unless such facilities, services, or information are made available to other providers of interLATA services in that market on the same terms and conditions;

X. Shall charge its separate affiliate under Section 272, or impute to itself (if using the access for its provision of its own services), an amount for access to its telephone exchange service and exchange access that is no less than the amount charged to any unaffiliated interexchange carriers for such service;

XI. May provide any interLATA or intraLATA facilities or services to its interLATA affiliate if such services or facilities are made available to all carriers at the same rates and on the same terms and conditions, and so long as the costs are appropriately allocated.

**Related FCC Dockets**

5. These requirements have been clarified and expanded upon in several FCC proceedings. These proceedings are subject to further modification in subsequent FCC orders, or in orders on

reconsideration. Below is a list of orders related to the above requirements issued by the FCC:

CC Docket No. 96-149, In the Matter of Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended; *First Report and Order and Further Notice of Proposed Rulemaking*; Released December 24, 1996

CC Docket No. 96-150, In the Matter of Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996; *Report and Order*; Released December 24, 1996

CC Docket No. 96-98, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; *First Report and Order*; Released August 8, 1996 (First Interconnection Order); *Second Report and Order and Memorandum Opinion and Order*; Released August 8, 1996 (Second Interconnection Order)

CC Docket No. 96-115, In the Matter of Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information; *Second Report and Order and Further Notice of Proposed Rulemaking*; Released February 26, 1998

6. In addition, the FCC has opened the following pending dockets which may, if applicable to the activities of the BOC, result in additional regulations surrounding the Nondiscriminatory Requirements:

CC Docket No. 96-254, In the Matter of Implementation of Section 273 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996; *Notice of Proposed Rulemaking*; Released December 11, 1996 (to examine manufacturing by BOCs - "Manufacturing NPRM")

CC Docket No. 98-56, RM-9101, In the Matter of Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance; *Notice of Proposed Rulemaking*; Released April 17, 1998 (to examine a proposed methodology by which access to incumbent LEC operations support systems is measured and reported to ensure nondiscriminatory, just, and reasonable treatment of new local telephone service providers - "OSS NPRM")

## ENGAGEMENT PLAN

**Engagement Period**

7. In order to facilitate meaningful data collection, the AUP engagement shall cover the first 12 months of operations commencing on the date the first Section 271 approval is obtained to provide in-region interLATA services, or at such time a Bell operating company first commences manufacturing operations, or begins providing interLATA information services. The engagement will also cover all assets since the date of inception of the Section 272 affiliate, which shall be the date when it, or its predecessor, was incorporated or the date when it first had assets. In the case of in-region interLATA services, if Section 271 approval is obtained, for example, on May 1 and operations begin on June 10, the engagement will cover the 12-month period of operations beginning May 1 through April 30. The planning and preliminary work for the engagement may commence prior to the end of the 12-month period of operations. The first biennial audit will cover all services for which a separate affiliate is required under Section 272(a)(2) and includes all states in which Section 271 approval has been obtained.

**Sampling**

8. The sampling sizes and methodologies will be determined after the initial survey of the Section 272 affiliate. Where indicated and appropriate, the practitioner will select a statistically valid sample using random and stratified sampling techniques with the following parameters: a desired confidence level equal to 95% and a desired upper precision limit equal to 5% with an expected error rate of 1%. The Oversight Team will approve the sampling plan, after consulting with the BOC, when reviewing the detailed procedures written by the practitioner.

9. Generally, the practitioner should consider all data and information falling within the engagement period; however, unless otherwise stated in this document or accepted by the Oversight Team, the practitioner should obtain data and information as of the latest period available during the engagement period.

**Definitions**

10. Throughout this document the BOC is mentioned as being one of the entities being analyzed. If the BOC transfers or assigns to an affiliated entity ownership of any network elements

that must be provided on an unbundled basis per Section 251(c)(3), such entity will be subject to all of the requirements of the BOC. For purposes of this audit, in the event that the BOC retails or wholesales any exchange and/or exchange access services exclusively through one or more of its subsidiaries or affiliates, or through one or more other subsidiaries, divisions, etc., of the parent Regional Holding Company, and the same services cannot be purchased directly from the BOC, then these entities will also be subject to all of the relevant nondiscriminatory requirements of objectives VII through XI of this document. Affiliates that merely resell the BOC's exchange services and/or exchange access services or lease unbundled elements from the BOC, or engage in permissible joint marketing activities (see Section 272(g)(1) of the Act), are excluded from these requirements.

11. The term "affiliate" means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For this purpose, the term "own" means to own an equity interest (or the equivalent thereof) of more than 10 percent. (Section 3 of the Communications Act of 1934, as amended)

**Conditions of Engagement**

12. The practitioner leading this engagement must be a licensed CPA. He/she and his/her team performing the engagement must be familiar with the guidelines established for agreed-upon procedures, the requirements for this engagement, and its objectives. The team performing the engagement should also be independent as defined in the Statements on Standards for Attestation Engagements at "AT §100.23, .24". All members of the team performing the engagement must have read, understood, and be familiar with all of the requirements contained in the following documents:

- Sections 271 and 272 of the Communications Act of 1934, as Amended;

- Section 32.27, Transactions with Affiliates, of the FCC's Uniform System of Accounts for Telecommunications Companies (USOA);

- The following FCC Dockets:

  a. CC Docket No. 86-111 dealing with the allocation of joint costs between the regulated and nonregulated activities of the telephone company;

  b. CC Docket No. 96-149 dealing with the implementation of the non-accounting safeguards of Sections 271 and 272 of the Act;

c. CC Docket No. 96-150 dealing with the implementation of the accounting safeguards of Sections 271 and 272 of the Act;

d. CC Docket No. 96-98 dealing with the implementation of the local competition provisions of the Act (the interconnection orders);

e. CC Docket No. 96-115 dealing with the use of customer proprietary network information;

f. Pending and/or initiated proceedings, such as CC Docket No. 96-254 dealing with manufacturing operations; CC Docket No. 98-56 dealing with standards for measuring operations support systems (OSS);

- BOC's Section 271 application and related FCC approval;
- State Commissions' orders approving those interconnection agreements tested within the engagement;
- Petitions for arbitration with the BOC for those agreements tested within the engagement.

13. In addition, the practitioner has an affirmative obligation to first advise the Joint Federal/State Oversight Team, where he/she deems appropriate, of the need to expand the scope of the engagement and its procedures in order to provide to the users all of the information which they need to determine compliance or noncompliance with the various requirements, including any additional fees that will be charged the BOC for the expanded scope. However, after discussion with the BOC and its Section 272 affiliates, the Oversight Team will make the final decision where additional procedures are warranted.

14. The practitioner may use the services of a specialist for assistance in highly technical areas. The specialist must not be affiliated in any form with the BOC or any of its affiliates.

15. Use of internal auditors must be limited to the provision of general assistance and the preparation of schedules and gathering of data for use in the engagement. Under no circumstances shall the internal auditors perform any of the procedures contained in this document. All procedures contained in this document must be performed by the independent

practitioner and his/her staff.

16. No part of the BOC cost allocation manual (CAM) annual audit can be used to satisfy any of these biennial audit requirements.

**Representation Letters**

17. The practitioner shall obtain three representation (assertion) letters. One representation letter should address all items related to operations. Another representation letter should address all items of a financial nature. And another representation letter should address that all Section 272 affiliates have been disclosed. Below are details of each representation letter.

18. The representation letter related to operations issues shall be signed by the Chief Operating Officer of the BOC and each Section 272 affiliate and shall include the following:

a. acknowledgement of management responsibility for complying with specified requirements;

b. acknowledgement of management responsibility for establishing and maintaining an effective internal control structure over compliance;

c. statement that management has disclosed or will disclose to the practitioner all known noncompliance up to the date of the draft report;

d. statement that management has made available all documentation related to compliance and noncompliance with the specified requirements;

e. statement that management has disclosed any communications from regulatory agencies, internal auditors, external auditors, external parties (including competitors), and other practitioners concerning possible noncompliance with the specified requirements, including communications received between the end of the period addressed in management's assertion and the date of the practitioner's report;

f. statement that each Section 272 affiliate operates independently from the BOC, that the BOC does not own any facilities jointly with the affiliates, that the BOC does not provide any operations, installation, and maintenance functions over the facilities owned by the affiliates, or leased by the affiliates from unaffiliated entities and that it is not providing and did not provide any research and development activities on behalf of the affiliates;

g. statement that each Section 272 affiliate has separate officers, directors, and employees from those of the BOC;

h. statement that the BOC has not discriminated between the separate affiliate and any other entity in the provision or procurement of goods, services, facilities, and information, or the establishment of standards; (On the BOC's representation letter only)

i. statement that the BOC subject to Section 271(c) of the Act has fulfilled requests from unaffiliated entities for telephone exchange service and exchange access within a period no longer than the period in which it provides such telephone exchange service and exchange access to itself or its affiliates; and (On the BOC's representation letter only)

j. statement that the BOC subject to Section 251(c) of the Act has made available facilities, services, or information concerning its provision of exchange access to other providers of interLATA services on the same terms and conditions as it has made available to its Section 272 affiliates that operate in the same market. (On the BOC's representation letter only)

19. The representation letter related to financial issues shall be signed by the Chief Financial Officer of the BOC and each Section 272 affiliate and shall include the following:

a. statement that each Section 272 affiliate maintains separate books, separate records, and separate accounts from those of the BOC and that all such books, records, and accounts are maintained in accordance with GAAP;

b. statement that each Section 272 affiliate has not obtained credit under any arrangement that would permit a creditor, upon default, to have recourse to the assets of the BOC;

c. statement that management has identified to the practitioner all assets transferred or sold and services rendered, (i) by the BOC to each Section 272 affiliate, (ii) by all central services organizations to each Section 272 affiliate, and (iii) by each Section 272 affiliate to the BOC; and that these transactions have been accounted for in the required manner;

d. statement that the BOC subject to Section 251(c) of the Act has charged its Section 272 affiliates, or imputed to itself (if using the access for its provision of its own services), an amount for access to its telephone exchange service and exchange access that is no less than the amount charged to any unaffiliated interexchange carriers for such service; (On the BOC's representation letter only)

e. statement that, if the BOC and an affiliate subject to Section 251(c) of the Act make available and/or have provided any interLATA facilities or services to its interLATA affiliate, such facilities or services are made available to all carriers at the same rates and on the same terms and conditions, and the associated costs are appropriately allocated; (On the BOC's representation letter only)

f. statement that management has not changed any of the BOC processes or procedures (as they relate to transactions of any kind with the Section 272 affiliate), since the execution of these agreed-upon procedures without apprising the practitioner, before the date of the draft report. (On the BOC's representation letter only)

20. The representation letter related to the disclosure of all Section 272 affiliates shall be signed by the Chief Financial Officer of the BOC's corporate holding company and shall state that each Section 272 affiliate has been identified, accounted for in the required manner, and disclosed in the required manner.

**Engagement Process**

21. The general standard procedures contained in this document are intended to provide general areas of audit work coverage and uniformity of audit work among all regions, to the extent possible considering state regulatory and corporate differences. They will be used by the BOCs as a guide for drafting the preliminary audit requirements, including the proposed scope of the audit, as prescribed in Section 53.211(a) and (b) of the FCC's Rules and Regulations. Under these rules, the BOCs subject to these audits must submit the preliminary audit requirements, including the proposed scope and extent of testing to the Oversight Team before engaging an independent accounting firm to conduct the biennial audit. The Oversight Team then has 30 days to review the preliminary requirements to determine whether they are adequate to meet the audit requirements in Section 53.209. We expect the preliminary requirements and scope of the audit to be similar to this document and to cover all of the areas described in this model. The BOC shall not engage any practitioner who has been instrumental during the past two years in designing any of the systems under review in the biennial audit. After the BOC has

engaged a practitioner to perform the biennial audit, the process for drafting detailed procedures is as follows:

- The Oversight Team and the practitioner will perform a joint survey of the affiliate. The purpose of this survey is to become acquainted with the company's structure, procedures, recordkeeping process, extent of affiliate transactions, and process followed by the BOC to process orders for services received from affiliates, nonaffiliates, and its own end-user customers. This survey will be conducted between four to six months after the affiliate has received approval to begin operations, or four to six months after the affiliate has begun operations where approval is not necessary.

- The practitioner will draft detailed procedures following the guidelines set forth by these general standard procedures and will submit them for review concurrently to all users.

- The Oversight Team will review the detailed procedures for consistency and adequacy of audit coverage and will approve them within a period of 30 days.

22. Access to companies' proprietary data and discussions of findings and facts related to the biennial audit is restricted to: (a) FCC staff members, (b) state staff members who by statute protect companies' proprietary data, (c) state staff members who have signed a protective agreement with the companies over which they have jurisdiction, (d) all state staff members of any participating state that has confidentiality procedures in effect covering all staff and that has the Chairman or designee sign the protective agreement on behalf of the entire Commission including Commission staff, and, (e) state staff members who have not signed the protective agreement, but that the company does not object to provide verbal information or written data, provided that they do not take possession of such data. Section 272(d)(3)(C) of the Communications Act of 1934, as amended, requires that State Commissions implement appropriate procedures to ensure the protection of any proprietary information obtained in connection with these biennial audits.

23. The detailed examination of the transactions may begin at such time as the practitioner deems appropriate to complete the engagement in accordance with the time schedule set forth in the FCC Rules and Regulations of Section 53.211 and Section 53.213.

24. During the course of the biennial audit, the practitioner will inform the Oversight Team well in advance, but

not less than 10 days, of plans to meet with the representatives of the BOC and the affiliate to discuss plans and procedures for the engagement, to survey the companies' operations, to overview the companies' procedures for maintaining books and records, and to discuss problems and findings encountered during the engagement. It is not necessary to inform the Oversight Team of meetings with the client to ask for clarification and explanation of certain items and/or to explore what other records exist and for requests of data. The practitioner shall also inform the Oversight Team and explain any deviation and or revisions necessary to the final detailed procedures immediately after having done so. The practitioner shall also submit to the Chief, Common Carrier Bureau, and shall copy the Oversight Team, any accounting or rule interpretations necessary to complete the engagement. The practitioner shall advise the Oversight Team of the need for more time to complete the engagement in the event additional procedures are requested by the Oversight Team (see 25c. below).

**Timetables**

25. In order to complete this engagement in a timely manner, below are time schedules to complete certain tasks:

a. Within 60 days after the end of the engagement period, but prior to discussing the findings with the BOC or the affiliate, the practitioner shall submit a draft of the report to the Oversight Team.

b. The Oversight Team shall have 45 days to review the findings and working papers and offer its recommendations, comments, and exceptions concerning the conduct of the engagement to the practitioner.

c. If additional procedures are recommended by the Oversight Team, the practitioner will advise the Oversight Team of any need for additional time to perform such procedures. Otherwise, after receiving the Oversight Team's recommendations, the practitioner has 15 days to make the appropriate revisions to the report and submit the report to the BOC for its comments on the findings, and to the Oversight Team.

d. The BOC shall have 30 days after receipt of the report to comment on the findings and send a copy of its comments to both the practitioner and the Oversight Team. At this time, the BOC will also indicate what information in the report it deems proprietary and why it should not be released to the public.

e. The Oversight Team will negotiate with the BOC and delete from the final report information deemed proprietary. The BOC will provide the Oversight Team a statement where it makes no proprietary or confidential claim with regard to any information contained in the final biennial engagement report or to any comments or reply comments included therein. This statement should be signed by the Chief Operating Officers of both the Section 272 affiliate and the BOC.

f. The practitioner shall have 10 days to respond to the BOC's comments. The report which contains the procedures employed with the related findings, the Oversight Team's comments, the BOC's comments, and the practitioner's reply comments will comprise the final report.

g. The report is then filed by the practitioner with the FCC and the State Regulatory Agencies participating in the joint AUP engagement for concurrent public release.

h. Interested parties have 60 days from the date the report is made available for public inspection to file comments with the Commission and/or any State Regulatory Agency.

**Report Structure**

26. The practitioner's report shall present all procedures and all findings encountered for each procedure performed, regardless of materiality, under each engagement objective. It should also contain the following elements:

a. A statement indicating that the practitioner is independent.

b. Identification of the specified users.

c. Reference to management assertions and the character of the engagement.

d. A statement that the procedures performed were those agreed to by the specified users identified in the report.

e. Reference to standards established by the American Institute of Certified Public Accountants.

f. A statement that the sufficiency of the procedures is solely the responsibility of the specified users and a disclaimer of responsibility for the sufficiency of those procedures.

g. A statement that the practitioner was not engaged to, and did not, perform an examination of the assertion, a disclaimer of opinion on the assertion, and a statement that if the practitioner had performed additional procedures, other matters might have come to his or her attention that would have been reported.

h. This report becomes a matter of public record via the practitioner's filing the final report with the FCC and the state regulatory agencies participating in the audit for the region.

i. A description of any limitations imposed on the practitioner by the BOC or any other affiliate, or other circumstances that might affect the practitioner's findings.

j. A description of the nature of the assistance provided by specialists and internal auditors.

# PROCEDURES

## Procedures for Structural Requirements

**OBJECTIVE I. Determine whether the separate affiliate required under Section 272 of the Act has operated independently of the Bell operating company.**

STANDARDS

The FCC has issued rules and regulations in CC No. Docket 96-149, Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended. Some of those rules require that,

- A BOC and its Section 272 affiliate cannot jointly own transmission and switching facilities, broadly defined as local exchange and exchange access facilities, or the land and buildings where those facilities are located. (47 C.F.R. Section 53.203(a)(1) and First Report and Order, para. 15, 158, 160)

- A Section 272 affiliate shall not perform operating, installation or maintenance functions associated with the BOC's facilities. Likewise, a BOC or any BOC affiliate, other than the Section 272 affiliate itself, shall not perform operating, installation or maintenance functions associated with the facilities that each Section 272 affiliate owns or leases from a provider other than the BOC with which it is affiliated. (47 C.F.R. Section 53.203(a)(2), (3) and First Report and Order, para. 15, 158, 163)

- To the extent that research and development is a part of manufacturing, it must be conducted through a Section 272 affiliate. If a BOC seeks to develop services for or with its Section 272 affiliate, the BOC must develop services on a nondiscriminatory basis for or with other entities pursuant to Section 272(c)(1). (First Report and Order, para. 169)

PROCEDURES

1. Inspect the certificate of incorporation, bylaws, and articles of incorporation of each Section 272 affiliate to determine whether the affiliates were established as

corporations separate from the BOC. Note the results of this procedure.

2. Obtain and inspect corporate entities' organizational chart(s) and confirm with legal representatives of the BOC and Section 272 affiliates the legal, reporting, and operational corporate structure of the Section 272 affiliates. Document who owns the Section 272 affiliates and to whom do they report to determine the independence of the affiliate.

3. Obtain functional organizational chart for each Section 272 affiliate as of the end of the ninth month of the engagement period and document for each department,

   - Number of employees

   - Street address(es) where employees are located

   - Description of functions performed by location.

4. Obtain from each Section 272 affiliate a list and description of services rendered to each Section 272 affiliate,

   - By the BOC (all services)

   - By other affiliates (all services)

   - By unaffiliated companies (operations, installation and maintenance only).

   This list should include the location of both the providing and receiving entity for all services involving operations, installation and maintenance.

5. From the data obtained in Procedures 3 and 4, identify and document which entity performs operations, installation, and maintenance functions over transmission and switching facilities either owned or leased by each Section 272 affiliate. Also, identify the street address location where these facilities are located and identify whether these facilities are owned or leased by each Section 272 affiliate, and, if leased, from whom they are leased.

6. Obtain descriptions of research and development (R&D) activities of the BOC for the first nine months of the engagement period and note any R&D related to the activities of each Section 272 affiliate. For R&D related to

activities of each Section 272 affiliate ask BOC personnel for more details, such as extent of R&D provided, progress reports, cost, and whether the Section 272 affiliate has been billed and has paid for this service. Inquire, and provide details, as to whether R&D service is offered and/or has been performed when requested by unaffiliated entities.

7. Obtain as of the end of the ninth month of the engagement period the balance sheet of each Section 272 affiliate and a detailed listing of all fixed assets which agrees with the amount shown in the balance sheet. If the list does not agree, inquire and document why. This detailed listing should include a full description of each item, date of purchase, price paid and recorded, and from whom purchased or transferred. Inspect title and other documents, which reveal ownership, of a statistically valid sample of transmission and switching facilities and the land and buildings where those facilities are located. Look for and make a note of any facilities which are owned jointly with the BOC. The balance sheet information obtained in this procedure should also be used to perform Procedure 13 under Objectives V and VI.

**OBJECTIVE II. Determine whether the separate affiliate required under Section 272 of the Act has maintained books, records, and accounts in the manner prescribed by the Commission that are separate from the books, records, and accounts maintained by the Bell operating company.**

**STANDARDS**

In CC Docket No. 96-150, Implementation of the Accounting Safeguards Under the Telecommunications Act of 1996, the FCC requires that each Section 272 affiliate maintain books, records, and accounts, in accordance with generally accepted accounting principles (GAAP), and separate from those of the BOC. (Report and Order, para. 170)

**PROCEDURES**

1. Obtain the general ledger (G/L) of each Section 272 affiliate and match the title on the G/L with the name of the affiliate on the certificate of incorporation to determine that a separate G/L is maintained. Look for special codes, if any, which may link this G/L to the G/L of the BOC and provide documentation. Note: Linkage at corporate headquarters for consolidations is an accepted practice.

2. Obtain each Section 272 affiliate's written accounting procedures and policies and identify the process for recording financial transactions of the Section 272 affiliate in the G/L; document such transaction flows along with key control points. In addition, identify the controls related to the proper identification and recording of Section 272 affiliate transactions in its separate books of account.

3. Obtain the cash receipts and cash disbursement journals and related ledgers for the ninth month of the engagement period. By random selection trace ten (10) cash receipt and ten (10) cash disbursement (including at least 5 payroll) transactions to the Section 272 affiliate bank account(s). Note name of affiliate on the bank account and whether these transactions cleared through this bank account. Compare account numbers indicated in the journals to those in the general ledger and note any differences.

4. Obtain each Section 272 affiliate's financial statements and lease agreements, as of the end of the ninth month of the

engagement period. Identify leases for which the annual obligation is $500,000 or more. Determine whether these leases have been accounted for in accordance with GAAP. Determine whether client lease accounting policies are in accordance with GAAP.

**<u>OBJECTIVE III</u>. Determine whether the separate affiliate required under Section 272 of the Act has officers, directors, and employees that are separate from those of the Bell operating company.**

**<u>STANDARDS</u>**

The FCC in CC Docket No. 96-149, Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended, interprets the above requirement further by stating the following:

- Separate officers, directors, and employees simply dictates that the same person may not simultaneously serve as an officer, director, or employee of both a BOC and its Section 272 affiliate. (First Report and Order, para. 178).

**<u>PROCEDURES</u>**

1. Obtain the BOC's and Section 272 affiliates' policies and procedures for transfers, sharing, and loan of employees between each other. Identify and document the types of internal controls that are in place that would prevent one from being an officer, or director, or employee of both the BOC and Section 272 affiliate at the same time.

2. Inquire and document as to whether each Section 272 affiliate and the BOC maintain separate boards of directors and separate officers. Obtain list of officers and of board of directors' names of the BOC and Section 272 affiliate(s) for the engagement period and compare and document the names appearing on both lists, respectively. Obtain the minutes of the meetings of the board of directors for both the BOC and Section 272 affiliate(s) for the engagement period and compare and document the names appearing on the minutes of the BOC and each Section 272 affiliate.

3. Obtain the functional organizational chart of each Section 272 affiliate as of the end of the ninth month of the engagement period (see Objective I, Procedure 3) and inspect it to determine whether any departments report either functionally or administratively (directly or indirectly) to an officer of the BOC.

4. Obtain payroll registers for the BOC and each Section 272 affiliate that include the social security numbers of all the directors, officers and employees for the ninth month of

the engagement period. Compare social security numbers of directors, officers, and employees appearing on both lists; document those names and/or social security numbers appearing on both lists, and inquire and document why.

5. Obtain a list of officers and employees who transferred from the BOC at any time to each Section 272 affiliate, and by the use of a statistically valid sample, determine whether the company's internal controls inspected in Procedure 1 have been implemented. Also, interview these employees to determine whether they used any proprietary information (e.g., customer proprietary network information (CPNI), Network Planning Manuals, Plant Traffic Practices, Operation, Installation and Maintenance (OI&M) Practices) obtained while they were employees of the BOC or whether any of the above information is made available to them through friends and acquaintances still employed by the BOC.

6. Obtain a list of all employees of each Section 272 affiliate since February 8, 1996, the date of the Act. By the use of a statistically valid sample, inspect company's files which indicate employees' employment history within the BOC family of companies and document whether they were employees of the BOC or any of its affiliates at any time. Also, document number of employees, number of times, and dates each employee transferred back and forth between the BOC or any other affiliate and the Section 272 affiliate since February 8, 1996.

**OBJECTIVE IV. Determine that the separate affiliate required under Section 272 of the Act has not obtained credit under any arrangement that would permit a creditor, upon default, to have recourse to the assets of the Bell operating company.**

**STANDARDS**

The FCC in 47 C.F.R. Section 53.203(d) indicates that a Section 272 affiliate shall not obtain credit under any arrangement that would permit a creditor, upon default, to have recourse to the assets of the BOC of which it is an affiliate.

The FCC also expands on this premise in CC Docket No. 96-149, Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended. In this docket the Commission states that,

- A BOC cannot co-sign a contract or any other instrument with a Section 272 affiliate that would allow each Section 272 affiliate to obtain credit granting recourse to the BOC's assets. (First Report and Order, para. 189)

- The BOC parent, or any other non-272 affiliate, cannot sign or co-sign a contract or any arrangement with a Section 272 affiliate that would allow the creditor to have recourse to the BOC assets. (First Report and Order, para. 189)

- A Section 272 affiliate cannot enter any arrangement with any party that would permit the lender to have recourse to the BOC in the event of a default. (First Report and Order, para. 189)

**PROCEDURES**

1. Document each Section 272 affiliate's debt agreements/instruments and credit arrangements with lenders and major suppliers of goods and services; look for guarantees of recourse to the BOC's assets, either directly or indirectly through another affiliate, and document those instances. Major suppliers are those having $500,000 or more in annual sales to the Section 272 affiliate.

2. Using the lease agreements obtained in Objective II, Procedure 4, document any instances in which each Section 272 affiliate's lease agreements (where the annual

obligation is $500,000 or more) have recourse to the BOC's assets, either directly, or indirectly through another affiliate.

3. For all debt instruments, leases, and credit arrangements maintained by each Section 272 affiliate, obtain (positive) confirmations from loan institutions, major suppliers, and lessors (as defined in Procedures 1 and 2 above) to attest lack of recourse to the BOC assets.

4. Document from each Section 272 affiliate the balance of the accounts payable to and/or advances from the BOC as of the end of the ninth month of the engagement period.

## Procedures for Accounting Requirements

**<u>OBJECTIVE V</u>. Determine whether the separate affiliate required under Section 272 of the Act has conducted all transactions with the Bell operating company on an arm's length basis with the transactions reduced to writing and available for public inspection.**

**<u>OBJECTIVE VI</u>. Determine whether or not the Bell operating company has accounted for all transactions with the separate affiliate in accordance with the accounting principles and rules approved by the Commission.**

<u>STANDARDS</u>

The FCC in CC Docket 96-150, Implementation of the Accounting Safeguards Under the Telecommunications Act of 1996, interprets the above requirements further by stating:

- A Section 272 affiliate shall conduct all transactions with the BOC of which it is an affiliate on an arm's length basis, pursuant to the accounting rules described in 47 C.F.R. Section 32.27, Transactions with Affiliates, of the FCC Rules and Regulations, with any such transactions reduced to writing and available for public inspection. (47 C.F.R. Section 53.203(e)). Section 32.27 requires the following:

  **For transactions involving the sale or transfer of assets or products between the carrier and affiliates:**

  a. assets sold to or by the carrier under tariff must be recorded at tariffed rate in the books of the carrier;

  b. nontariffed assets sold to or by the carrier that qualify for prevailing price must be recorded at prevailing price in the books of the carrier. In order to qualify for prevailing price valuation, sales of a particular asset must encompass greater than 50 percent of the total quantity of such product sold by an entity; 50% threshold is applied on an asset by asset basis rather than on a product line basis;

  c. all other assets sold by or transferred from a carrier to affiliates must be recorded in the books of the carrier at the higher of fair market value or net book cost; (Note: carriers are required to make a good faith estimate of fair market value.)

d. all other assets purchased by or transferred to a carrier from affiliates must be recorded in the books of the carrier at the lower of fair market value or net book cost; (Note: carriers are required to make a good faith estimate of fair market value.)

**For transactions involving the provision of services between the carrier and affiliates:**

a. services provided to or by the carrier at tariff must be recorded at tariffed rate in the books of the carrier;

b. nontariffed services provided to or by the carrier pursuant to publicly filed agreements submitted to a state commission must be recorded in the books of the carrier at the rate appearing in publicly filed agreements;

c. nontariffed services provided to or by the carrier that qualify for prevailing price must be recorded in the books of the carrier at prevailing price. In order to qualify for prevailing price valuation, sales of a particular service must encompass greater than 50 percent of the total quantity of such service sold by an entity; 50% threshold is applied on a service by service basis rather than on a service line basis;

d. all other services provided to a carrier by an affiliate must be recorded in the books of the carrier at the lower of fair market value or fully distributed cost. (Note: carriers are required to make a good faith estimate of fair market value.) *Exception* -- services received by a carrier from an affiliate that exists *solely* to provide services to members of the carrier's corporate family must be recorded in the books of the carrier at fully distributed cost.

e. all other services provided by the carrier to an affiliate must be recorded in the books of the carrier at the higher of fair market value or fully distributed cost; (Note: carriers are required to make a good faith estimate of fair market value.)

f. Fully distributed cost is determined by following the standards contained in 47 C.F.R. Section 64.901, Allocation of Costs, of the FCC Rules and Regulations. These rules emphasize direct assignment and cost causation. First, costs are to be directly assigned either to regulated or nonregulated activities to the maximum extent possible. Then, costs which cannot be directly assigned are to be grouped into homogeneous cost pools and allocated in accordance with direct or indirect measures of cost causation. Residual costs which cannot be apportioned on any cost-causative basis will be apportioned using the general allocator. The general allocator is the ratio of all expenses directly assigned or attributed to nonregulated activities, to the total of all (regulated and nonregulated) directly assigned or attributed expenses.

- A BOC and a Section 272 affiliate may provide in-house services to one another, except for operating, installation, or maintenance services. These in-house services, however, must be provided on an arm's length basis, and must be in writing. (CC Docket No. 96-149, First Report and Order, para 180)

- Provision of exchange and exchange access services and unbundled network elements constitute transactions requiring disclosure (CC Docket No. 96-150, Report and Order, para. 124). These transactions include the provision of transmission and switching facilities by the BOC and its affiliate to one another. (CC Docket No. 96-149, First Report and Order, para. 193)

- The separate affiliate must provide a detailed written description of the asset or service transferred, together with the specific price and the terms and conditions of the transaction on the Internet within 10 days of the transaction through the company's home page. These descriptions should be sufficiently detailed to allow evaluation of compliance with accounting rules. This information must also be made available for public inspection at the principal place of business of the BOC and must contain a certification statement identical to that included in the ARMIS Reports. This certification statement declares that an officer of the BOC has represented that to the best of his knowledge all statements of fact contained in the submission are true and the submission is an accurate statement of the affairs of the BOC for the relevant period. (Report and Order, para. 122)

- Affiliate transaction rules apply to transactions between the BOC and each Section 272 affiliate; between each Section 272 affiliate and a nonregulated affiliate, that ultimately result in an asset or service being provided to the BOC, i.e., chained transactions. (Report and Order, para. 183)

- Products and services made available to the Section 272 affiliate and to unaffiliated companies need not meet the 50 percent threshold in order for a BOC to record the transaction involving such products and services at prevailing price. (Report and Order, para. 137)

- Nondiscrimination requirements extend to any good, service, facility, or information that a BOC provides to its Section 272 affiliate(s) with the exception of joint marketing, which is covered in Section 272(g)(1) and (2) of the Act. Unaffiliated entities must have equal opportunity to acquire any such good, service, facility, or information. In particular, if a BOC were to decide to transfer ownership of a unique facility, such as its Official Services network, to a Section 272 affiliate, it must ensure that the Section 272 affiliate and unaffiliated entities have an equal opportunity to obtain ownership of this facility. (CC Docket 96-149, First Report and Order, para. 218)

- Interstate rate base, revenue requirements, and price cap indices of the BOC must be reduced by the costs related to any regulated facilities transferred to each Section 272 affiliate. (CC Docket No. 96-150, Report and Order, para. 265)

**PROCEDURES**

1. Obtain from the BOC a list of all complaints from competitors related to the provision or procurement of goods, services, facilities, and information, or in the establishment of standards which were filed during the first nine months of the engagement period. This list should group the complaints in the following categories:

    - allegations of cross-subsidies (for Objectives V and VI);

    - allegations of discriminatory provision or procurement of goods, services, facilities, customer network services information (excludes customer proprietary network information (CPNI)), or the establishment of standards (for Objective VII);

- allegations of discriminatory processing of orders for, and provisioning of, exchange access and exchange services and unbundled network elements, and discriminatory resolution of network problems (for Objective VIII);

- allegations of discriminatory availability of exchange access facilities (for Objective IX);

- allegations of discriminatory availability of interLATA facilities or services not at the same rates and not on the same terms and conditions as the interLATA affiliate (for Objective XI).

For each group of complaints, determine by inquiry and documentation how many of these complaints were under investigation, how many complaints had been resolved and in what time frame they had been resolved, if feasible. For those complaints that had been resolved, document how those allegations were concluded and, if the complaint was upheld, inquire and document what steps the company has taken to prevent those practices from recurring.

2. Obtain from the BOC and each Section 272 affiliate current written procedures for transactions with affiliates. Compare these procedures with the FCC Rules and Regulations indicated as "standards" above. Note and describe any differences.

3. Inquire and describe how the BOC and each Section 272 affiliate disseminate the FCC Rules and Regulations and raise awareness among employees for compliance with the affiliate transactions rules. For this purpose, describe type and frequency of training, if any, literature distributed, company's policy, and document the supervision employees responsible for affiliate transactions received. Interview employees responsible for the development and recording of affiliate transactions costs in the books of record of the carrier to determine awareness of these rules.

4. Inquire and describe the process that a Section 272 affiliate must follow to request any type of service from the BOC. Describe the approval process within the BOC to fulfill a request for service from a Section 272 affiliate.

Does the Section 272 affiliate request services directly from the department that provides the service?

5. Obtain all written agreements for services and for interLATA and exchange access facilities between the BOC and each Section 272 affiliate which were in effect during the first nine months of the engagement period. Summarize these agreements, if feasible, otherwise include copies of relevant pages, and note names of parties, type of service, price, terms, and conditions. Compare these agreements with the list of services provided by the BOC to the Section 272 affiliate in Objective I, Procedure 4 and note any discrepancies. In addition, note which agreements are still in effect. For those agreements no longer in effect, indicate termination date; identify agreements terminated prematurely and document why. Inquire and document the provisioning of any service without a written agreement.

6. At the end of the ninth month of the engagement period, view each company's home page on the Internet and compare the prices and terms and conditions of services and assets shown on this site to the agreements provided in Procedure 5 above. By physical inspection, determine whether the same information is made available for public inspection at the principal place of business of the BOC. Describe any differences and inquire why such differences exist. If the company makes any claim of confidentiality for nondisclosure, obtain details. It should be noted that these transactions should be posted for public inspection within 10 days of their occurrence. Document the procedures that the company has in place for posting these transactions on a timely basis. The information provided on the Internet should be in sufficient detail to allow evaluation for compliance with accounting rules (see Docket No. 96-150, Report and Order, para. 122). Obtain copies of these public postings and include in the working papers.

7. For nontariffed services and for services for which a prevailing market price (PMP) has not been established, or are not subject to publicly filed agreements, document the BOC's and the Section 272 affiliate's process for developing fully distributed cost (FDC). Document and identify the type of costs included in FDC. Document the actual development of FDC for two services, at each company, to be identified by the Oversight Team after the survey of the affiliate.

8. For nontariffed services for which a PMP has not been established, or are not subject to publicly filed

agreements, document the process the BOC and the Section 272 affiliate follow to make a good faith estimate of fair market value (FMV). Document the actual development of a good faith estimate of FMV for two services, at each company, to be identified by the Oversight Team after the survey of the affiliate.

9. Obtain a listing and amounts of all services rendered by month by the BOC to each Section 272 affiliate during the first nine months of the engagement period (see Objective I, Procedure 4). For those services made available to the Section 272 affiliate that are not made available to third parties, using a statistically valid sample, compare unit charges to PMP, or FDC, or FMV, as appropriate, to determine whether these amounts were recorded in the books of the BOC in accordance with the affiliate transactions standards. When differences exist, note the number of instances and the amounts involved. Inquire and make a note of reasons for these occurrences. Document the amount the Section 272 affiliate has recorded for the service in its books of record. Also, document the amount the Section 272 affiliate has paid for the service to the BOC.

10. Obtain a listing and amounts of all services rendered by month to the BOC by each Section 272 affiliate during the first nine months of the engagement period. Using a statistically valid sample, compare unit charges to tariff rates, or PMP, or FDC, or FMV, as appropriate, to determine whether these services were recorded in the books of the BOC in accordance with the affiliate transactions standards. When differences exist, note the number of instances and the amounts involved. Inquire and make a note of reasons for these occurrences. Document the amount the BOC has recorded for the service in its books of record. Also, document the amount the BOC has paid for the service to the Section 272 affiliate.

11. Inquire and note how and who maintains each Section 272 affiliate's employee benefits plans (such as life insurance, health insurance, retirements plans). Determine by inquiry who pays or funds these benefits plans and whether the costs for administering these plans are allocated or assigned to the Section 272 affiliates.

12. Inquire whether any central services organization (such as the services company, the parent company, the data processing company, etc.) of the BOC renders services to each Section 272 affiliate. If so, obtain a listing (see Objective I, Procedure 4) and amounts of services rendered

by month by each central services organization to each Section 272 affiliate during the first nine months of the engagement period. Note the methodology used to identify and cost these services and, for a statistically valid sample, obtain evidence that services are being billed to each Section 272 affiliate and that such affiliates are paying for these services. If not, identify and document the process these organizations have to ensure that these costs are not recovered from the BOC.

13. Obtain as of the end of the ninth month of the engagement period the balance sheet of each Section 272 affiliate and a detailed listing of all fixed assets which agrees with the amount shown in the balance sheet. If the list does not agree, inquire and document why. This detailed listing should include a full description of each item, date of purchase, price paid and recorded, and from whom purchased or transferred. The balance sheet information obtained in this procedure should also be used to perform Procedure 7 under Objective I. Other specific steps to be performed follow:

    a. For those items purchased or transferred from the BOC, obtain net book cost and fair market value. Inquire and document how the fair market value was determined. Inspect these transactions to determine whether they were recorded in the books of the BOC at the higher of FMV or net book cost, as required.

    b. For those items purchased or transferred from another affiliate, identify and document whether they were originally transferred from the BOC to other affiliates.

    c. For those items purchased or transferred from the BOC, either directly or through another affiliate, since February 8, 1996, also inquire and obtain details as to how the BOC made an equal opportunity available to unaffiliated entities to obtain ownership of the facilities. Describe how and upon what basis the BOC decided to transfer/sell the facilities to a Section 272 affiliate instead of an unaffiliated entity.

14. Where assets are priced pursuant to Section 252(e) (i.e., as approved by the regulatory commissions) or statements of generally available terms pursuant to Section 252(f), compare such charges to the publicly-filed agreements or statements and document any differences.

15. Inquire and obtain details as to whether any part of the

BOC's Official Services network was transferred or sold to a Section 272 affiliate at any time. In addition to the requirements for Procedure 13, for any transfer or sale of assets on or after February 8, 1996, inquire and obtain details as to how the BOC made an equal opportunity available to unaffiliated entities to obtain ownership of the facilities. Describe how and upon what basis the BOC decided to transfer/sell the facilities to a Section 272 affiliate instead of an unaffiliated entity.

16. If any facilities were either sold or transferred to a Section 272 affiliate, obtain the interstate price cap indices to determine whether, (i) the rate base had been reduced by the net book cost of the assets sold or transferred, (ii) the revenue requirement had been adjusted to reflect the gain from the sale or transfer of the assets and, (iii) the revenue requirement had been adjusted permanently to reflect the reduced operating costs related to the assets sold or transferred. Document this procedure. If the BOC had not made these adjustments, inquire and explain.

17. Inquire and obtain details on construction to reconfigure the telephone network of the BOC to connect to that of the Section 272 affiliate. Describe the extent of the reconfiguration construction, who was the contractor, when did it take place, how much did it cost, who paid for it, and on which books and accounts was it recorded.

## Procedures for Nondiscriminatory Requirements

**OBJECTIVE VII. Determine whether or not the Bell operating company has discriminated between the separate affiliate and any other entity in the provision or procurement of goods, services, facilities, and information, or the establishment of standards.**

**STANDARDS**

The FCC in CC Docket No. 96-149, Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended, establishes some non-discriminatory rules and regulations. These rules and regulations do not permit a Bell operating company (BOC) to discriminate in the following manner:

- by giving preference to a Section 272 affiliate's equipment in the procurement process. (First Report and Order, para. 16)

- in awarding contracts for telecommunications equipment directly to their affiliate. (First Report and Order, para. 234)

- by failing to provide advance information about network changes to its competitors. (First Report and Order, para. 16)

- by not offering third parties the same goods, services, facilities and information (excludes customer proprietary network information (CPNI) and joint marketing) that it provides to its Section 272 affiliate at the same rates, terms, and conditions. (First Report and Order, para. 202)

**NOTES:**
(i) BOCs are not required under the nondiscrimination rules and regulations to provide to third parties Customer Proprietary Network Information (CPNI) that is shared with affiliates (see *Second Report and Order*, CC Docket No. 96-115, Released February 26, 1998, para. 169). The provision of "information" referenced in the nondiscriminatory rules and regulations excludes CPNI. CPNI is defined in Section 222(f)(1) of the Act and includes information that is personal to customers as well as commercially valuable to carriers, such as to whom, where and when a customer places a call, as well

as the types of service offerings to which the customer subscribes and the extent the service is used.

(ii) BOCs are allowed to jointly market and sell affiliate-provided interLATA services without offering comparable joint marketing opportunities to other providers of interLATA services (see Section 272(g)(2) of the Act, and CC Docket No. 96-149, First Report and Order, Paragraphs 291-292). However, if BOCs market or sell their telephone exchange services through joint marketing conducted by the Section 272 affiliate, then the BOCs must also permit third parties to market and sell its telephone exchange services (see Section 272(g)(1) of the Act).

- in establishing or adopting any standards that favor its Section 272 affiliate over third parties. (First Report and Order, para. 208 and 229)
- in developing new services solely for its Section 272 affiliate. (First Report and Order, para. 210)
- in purposely delaying the implementation of an innovative new service by denying a competitor's reasonable request for interstate exchange access until its Section 272 affiliate was ready to provide competing service. (First Report and Order, para. 211)
- in marketing its affiliate's interLATA services to inbound callers without informing them of their right to select the interLATA carrier of their choice. (First Report and Order, para. 292)

In addition, a Section 272 affiliate may not market or sell information services and BOC telephone exchange services together, unless the BOC permits other information service providers to market and sell telephone exchange services. (First Report and Order, para. 287)

Another FCC Docket, in which orders have not yet been released, which may impact this objective is CC Docket No. 96-254 dealing with manufacturing activities.

**PROCEDURES**

1. Obtain from the BOC a list of all complaints from competitors related to the provision or procurement of

goods, services, facilities, and information, or in the establishment of standards which were filed during the first nine months of the engagement period. This list should group the complaints in the following categories:

- allegations of cross-subsidies (for Objectives V and VI);

- allegations of discriminatory provision or procurement of goods, services, facilities, customer network services information (excludes customer proprietary network information (CPNI)), or the establishment of standards (for Objective VII);

- allegations of discriminatory processing of orders for, and provisioning of, exchange access and exchange services and unbundled network elements, and discriminatory resolution of network problems (for Objective VIII);

- allegations of discriminatory availability of exchange access facilities (for Objective IX);

- allegations of discriminatory availability of interLATA facilities or services not at the same rates and not on the same terms and conditions as the interLATA affiliate (for Objective XI).

For each group of complaints, determine by inquiry and documentation how many of these complaints were under investigation, how many complaints had been resolved and in what time frame they had been resolved, if feasible. For those complaints that had been resolved, document how those allegations were concluded and, if the complaint was upheld, inquire and document what steps the company has taken to prevent those practices from recurring.

2. Obtain the BOC's written procurement procedures, practices, and policies for services and goods provided by each Section 272 affiliate. Make a note of any stated purchasing preferences contained in the BOC's procedures, if any, and provide details of the BOC's bidding process, the selection process, and how the BOC disseminates requests for proposals (RFPs) to affiliates and third parties.

3. Obtain and inspect the BOC's procurement awards to each Section 272 affiliate during the first nine months of the engagement period and inspect bids submitted by each Section 272 affiliate and third party, note terms, and discuss with

BOC representatives how the selection was made. Compare this practice with the BOC written procurement procedures and note any differences.

4. Obtain a list of all goods (including software), services, facilities, and customer network services information, excluding CPNI, other than those related to exchange access services and facilities inspected in Objective IX, made available to each Section 272 affiliate by the BOC. For a statistically valid sample, inquire and obtain copies of the media used by the BOC to inform unaffiliated entities of the availability of the same goods, services, facilities, and information at the same price, terms, and conditions.

5. Obtain a list from the BOC of all unaffiliated entities who have purchased the same goods (including software), services, facilities, and customer network services information (excludes CPNI) from the BOC. If any, describe what goods, services, facilities, and customer network services information and the extent of purchases made. Select a statistically valid sample and compare the rates, terms and conditions of the sampled items to the rates, terms and conditions offered to each Section 272 affiliate. Note any differences. Document the amount each Section 272 affiliate has paid for the same items purchased from the BOC.

6. Document how the BOC disseminates information about network changes, the establishment or adoption of new network standards, and the availability of new network services to each Section 272 affiliate and to unaffiliated entities. Note any differences.

7. Obtain and inspect customer service representatives' scripts for inbound calls establishing new service, adding a second line, moving to a new location, changing selected interLATA service provider, or any other situation where the BOC or BOC affiliated sales agents attempt to market its Section 272 affiliate's interLATA service. These marketing attempts may either be related to interLATA service only or following the sale of a BOC product or service.

8. Observe (listen in, for one half hour each, to at least five) customer service representatives, as defined in Procedure 7, responding to inbound callers to whom the sales representatives attempt to market the Section 272 affiliate's interLATA service. Labor union concurrence may be needed for this procedure. Note messages conveyed during observation. Make a note of any instances where the caller

was referred to the Section 272 affiliate and was not informed of other providers of interLATA services and was not informed of his right to make the selection.

9. Interview 10 sales managers of each Section 272 affiliate and inspect any available printed materials to determine whether any Section 272 affiliates market information services and exchange services, as an agent of the BOC or as a reseller. If yes, interview 10 sales managers of the BOC and inspect printed materials of the BOC to determine whether unaffiliated entities have the same opportunity.

**OBJECTIVE VIII. Determine whether or not the Bell operating company and an affiliate subject to Section 251(c) of the Act have fulfilled requests from unaffiliated entities for telephone exchange service and exchange access within a period no longer than the period in which it provides such telephone exchange service and exchange access to itself or its affiliates.**

STANDARDS

The FCC in CC Docket No. 96-149, Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended, provides some preliminary rules and regulations. A further proceeding in this matter, currently underway, will provide additional guidelines. We will revise these procedures to conform to the new guidelines when available. Current FCC rules and regulations require that,

- for equivalent requests the response time a BOC provides to unaffiliated entities should be no greater than the response time it provides to itself or its affiliate. (First Report and Order, para 240)
- a BOC must make available to unaffiliated entities information regarding the service intervals in which the BOC provides service to itself or its affiliates. (First Report and Order, para. 242)
- a BOC must not provide a lower quality service to competing interLATA service providers than the service it provides to its Section 272 affiliate at a given price. (First Report and Order, para. 16)

PROCEDURES

1. Obtain from the BOC a list of all complaints from competitors related to the provision or procurement of goods, services, facilities, and information, or in the establishment of standards which were filed during the first nine months of the engagement period. This list should group the complaints in the following categories:
    - allegations of cross-subsidies (for Objectives V and VI);
    - allegations of discriminatory provision or procurement of goods, services, facilities, customer network

services information (excludes customer proprietary network information (CPNI)), or the establishment of standards (for Objective VII);

- allegations of discriminatory processing of orders for, and provisioning of, exchange access and exchange services and unbundled network elements, and discriminatory resolution of network problems (for Objective VIII);

- allegations of discriminatory availability of exchange access facilities (for Objective IX);

- allegations of discriminatory availability of interLATA facilities or services not at the same rates and not on the same terms and conditions as the interLATA affiliate (for Objective XI).

For each group of complaints, determine by inquiry and documentation how many of these complaints were under investigation, how many complaints had been resolved and in what time frame they had been resolved, if feasible. For those complaints that had been resolved, document how those allegations were concluded and, if the complaint was upheld, inquire and document what steps the company has taken to prevent those practices from recurring.

2. Obtain BOC's reports during the first nine months of the engagement period, if available, indicating time intervals for processing orders, provisioning of service, performing repair and maintenance services **for end user customers** of the BOC, affiliate, and nonaffiliates for the following services:

   - Exchange telephone services

   - Exchange access services

   - Unbundled network elements

   Make a note of differences in time in fulfilling each type of request for the same services from end user customers of the BOC, affiliates, nonaffiliates.

3. Obtain BOC's reports during the first nine months of the engagement period, if available, indicating time intervals for processing orders, provisioning of service, and performing repair and maintenance services **for the affiliate and for nonaffiliates, as customers,** for the following

services:

- Exchange access services

- Unbundled network elements

Make a note of differences in time in fulfilling each type of request for the same services from the affiliate and nonaffiliates.

4. Inspect a statistically valid sample of the underlying data used to prepare the reports obtained in Procedure 2 and 3 above and determine agreement with data in the report and document any differences.

5. If no reports are available, obtain from the BOC a statistically valid sample of all orders requesting exchange telephone services, exchange access services, and/or unbundled network services for end user customers for the period of one month and for one state (to be selected by the Oversight Team). Prepare worksheet indicating the date of the order, the address, the type of services ordered, the date when the order was executed and the service was provided and note the time interval to process requests for end user customers of the BOC, affiliates, nonaffiliates.

6. Repeat Procedure 5 for services requested by the affiliate and nonaffiliates as the users of those services (see Procedure 3 above).

7. Determine by inquiry, first, and then by inspection how and where the BOC makes available to unaffiliated entities information regarding service intervals in providing any service to end user customers of itself, of the affiliates, and of unaffiliated entities. Document the results.

**<u>OBJECTIVE IX</u>. Determine whether or not the Bell operating company and an affiliate subject to Section 251(c) of the Act have made available facilities, services, or information concerning its provision of exchange access to other providers of interLATA services on the same terms and conditions as it has to its affiliate required under Section 272 that operates in the same market.**

**<u>STANDARDS</u>**

The FCC in CC Docket No 96-149, Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended, indicates that a BOC may not discriminate in favor of its Section 272 affiliate in the following manner:

- by providing exchange access services to competing interLATA service providers at a higher rate than the rate offered to its Section 272 affiliate. (First Report and Order, para. 16)

- by not making available facilities and services to others on the same terms, conditions and prices that it provides to its Section 272 affiliate. (First Report and Order, para. 316)

**<u>PROCEDURES</u>:** This objective is closely related to Objective XI which contains procedures for the provision by the BOC of interLATA facilities and services. Therefore, these procedures may be performed in conjunction with the procedures for Objective XI.

1. Obtain from the BOC a list of all complaints from competitors related to the provision or procurement of goods, services, facilities, and information, or in the establishment of standards which were filed during the first nine months of the engagement period. This list should group the complaints in the following categories:

    - allegations of cross-subsidies (for Objectives V and VI);

    - allegations of discriminatory provision or procurement of goods, services, facilities, customer network services information (excludes customer proprietary network information (CPNI)), or the establishment of standards (for Objective VII);

- allegations of discriminatory processing of orders for, and provisioning of, exchange access and exchange services and unbundled network elements, and discriminatory resolution of network problems (for Objective VIII);
- allegations of discriminatory availability of exchange access facilities (for Objective IX);
- allegations of discriminatory availability of interLATA facilities or services not at the same rates and not on the same terms and conditions as the interLATA affiliate (for Objective XI).

For each group of complaints, determine by inquiry and documentation how many of these complaints were under investigation, how many complaints had been resolved and in what time frame they had been resolved, if feasible. For those complaints that had been resolved, document how those allegations were concluded and, if the complaint was upheld, inquire and document what steps the company has taken to prevent those practices from recurring.

2. Obtain list of exchange access services and facilities with their related rates offered to each Section 272 affiliate and inspect to determine whether the BOC makes these services and facilities available at the same rates, terms, and conditions to all carriers. For this purpose, inspect brochures, advertisements of any kind, bill inserts, correspondence, or any other media used to inform carriers of the availability of these services. Using a statistically valid sample of the informational media identified above, compare rates, terms, and conditions offered each Section 272 affiliate with those offered unaffiliated carriers.

3. Obtain invoices for exchange access services and facilities for one month (to be determined by the Oversight Team) rendered by the BOC to the Section 272 affiliate, and other interexchange carriers (IXCs). Using a statistically valid sample of billed items, inspect underlying details of invoice and compare rates, terms, and conditions charged each Section 272 affiliate with those charged IXCs for the same services and note any differences. If differences are noted, pursue the matter further through inquiry of appropriate personnel and note why they occurred.

4. Using the invoices obtained in Procedure 3 above, trace the

amount invoiced for exchange access services to each Section 272 affiliate and determine whether the amount invoiced was the amount recorded by the BOC and paid by each Section 272 affiliate. For this purpose, identify and inspect method of payment such as cancelled checks, wire transfers, and, if needed, summaries of invoiced amounts corresponding to the amount paid. Note any differences and inquire as to why they occurred.

**OBJECTIVE X. Determine whether or not the Bell operating company and an affiliate subject to Section 251(c) of the Act have charged its separate affiliate under Section 272, or imputed to itself (if using the access for its provision of its own services), an amount for access to its telephone exchange service and exchange access that is no less than the amount charged to any unaffiliated interexchange carriers for such service.**

STANDARDS

The FCC has issued rules and regulations in CC Docket No. 96-149, Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended. These rules require that,

- A BOC may not discriminate in favor of its Section 272 affiliate by providing exchange access services to competing interLATA service providers at a higher rate than the rate offered to its Section 272 affiliate (First Report and Order, para. 16). This requirement is met,
  - If the affiliate purchases exchange service and exchange access service at tariffed rates. (First Report and Order, para. 256)
  - If the affiliate acquires services or unbundled elements from a BOC at prices that are available on a nondiscriminatory basis under Section 251. (First Report and Order, para. 256)
  - If the BOC files with the State Commission a statement of generally available terms pursuant to Section 271(c)(1)(B) which would include prices that are available on a nondiscriminatory basis in a manner similar to tariffing, and a BOC's Section 272 affiliate obtains access or interconnection at a price set forth in the statement. (First Report and Order, para. 256)
  - If a BOC makes volume and term discounts available on a nondiscriminatory basis to all unaffiliated interexchange carriers. (First Report and Order, para. 257)
- BOCs are required to charge nondiscriminatory prices, and to allocate properly the costs of exchange access according to the affiliate transactions and joint cost rules. (First

Report and Order, para. 258)

- For integrated operations (for operations performed within the company and not under a separate affiliate), a BOC must impute to itself an amount for access to its telephone exchange service and exchange access that represents tariffed rates (First Report and Order, para. 256). This tariffed rate must be the highest rate paid for access by unaffiliated carriers. The BOC may consider the comparability of the service provided. (CC Docket No. 96-150 Report and Order, para. 87)

**PROCEDURES**

1. Obtain agreements that each Section 272 affiliate and other interexchange carriers (IXCs) have with the BOC for exchange access services.

2. Determine and fully document in which LATAs the BOC has access price flexibility for interLATA interstate and interLATA intrastate access services.

3. From the agreements obtained in Procedure 1, use a statistically valid sample to compare volumes, discounts, and rates negotiated with each Section 272 affiliate with those negotiated by other IXCs for the same services. Note and discuss any differences with management.

4. Obtain list of interLATA services offered by the BOC and discuss list with appropriate BOC employees to determine whether the list is comprehensive. Compare services appearing on the list with interLATA services disclosed in the BOC's Cost Allocation Manual (CAM) and note any differences. Compare the nonregulated interLATA services listed in the BOC's CAM with those defined as incidental in Section 271(g) of the Act and those interLATA services allowed under FCC order (for example E911) and note any differences.

5. Obtain a statement of revenue, by month, from interLATA services provided by the BOC itself, for the first nine months of the engagement period, and perform a trend analysis. If increases of more than 10% are noted from month to month, inquire and note reasons for such increase.

6. From the list of services obtained in Procedure 4 above, by using a statistically valid sample of interLATA services offered by the BOC and not through an affiliate, determine whether the BOC is imputing (charging) to itself an amount

for access, switching, and transport. Obtain usage details and tariffed rates for each of the above elements. Match rates used in calculations with the tariffed rates or those rates charged other interexchange carriers (IXCs) and note any differences. Trace amount to the journal entry and to the general ledger of the BOC. The entry should be a debit to nonregulated operating revenues (decrease) and a credit to regulated revenues (increase). If the process followed by the BOC is different from the one described above, please describe it in detail and obtain full documentation.

7. For each of the following categories of services, viz., exchange access services, local exchange services, and unbundled network elements, provided by the BOC to the Section 272 affiliate during the first nine months of operations, document the total amount the affiliate has recorded for those services in its books and reconcile with the amount the affiliate paid to the BOC and the amount of revenue reflected in the BOC's books for those services.

**OBJECTIVE XI. Determine whether or not the Bell operating company and an affiliate subject to Section 251(c) of the Act have provided any interLATA facilities or services to its interLATA affiliate and made available such services or facilities to all carriers at the same rates and on the same terms and conditions, and allocated the associated costs appropriately.**

**STANDARDS**

Valuation and recording procedures for sales or transfers of any interLATA or intraLATA facilities to each Section 272 affiliate, leasing of any unbundled network elements, or provision of any service by the BOC to each Section 272 affiliate are covered in Objectives V and VI of this program, under the affiliate transactions rules.

BOC network services and unbundled network elements made available under Section 251 to each Section 272 affiliate must also be made available at the same price to unaffiliated companies. (CC Docket No. 96-149, First Report and Order, para. 256)

**PROCEDURES**: This objective is closely related to Objective IX which contains procedures for the provision by the BOC of exchange access services. Therefore, these procedures may be performed in conjunction with the procedures for Objective IX.

1. Obtain from the BOC a list of all complaints from competitors related to the provision or procurement of goods, services, facilities, and information, or in the establishment of standards which were filed during the first nine months of the engagement period. This list should group the complaints in the following categories:

   - allegations of cross-subsidies (for Objectives V and VI);

   - allegations of discriminatory provision or procurement of goods, services, facilities, customer network services information (excludes customer proprietary network information (CPNI)), or the establishment of standards (for Objective VII);

   - allegations of discriminatory processing of orders for, and provisioning of, exchange access and exchange services and unbundled network elements, and discriminatory resolution of network problems (for Objective VIII);

- allegations of discriminatory availability of exchange access facilities (for Objective IX);

- allegations of discriminatory availability of interLATA facilities or services not at the same rates and not on the same terms and conditions as the interLATA affiliate (for Objective XI).

For each group of complaints, determine by inquiry and documentation how many of these complaints were under investigation, how many complaints had been resolved and in what time frame they had been resolved, if feasible. For those complaints that had been resolved, document how those allegations were concluded and, if the complaint was upheld, inquire and document what steps the company has taken to prevent those practices from recurring.

2. Obtain list of interLATA network services and facilities with their related rates offered by the BOC to each Section 272 affiliate to determine whether the BOC makes these services and facilities available at the same rates, terms, and conditions to all carriers. For this purpose, inspect brochures, advertisements of any kind, bill inserts, correspondence, or any other media used to inform carriers of the availability of these services. Using a statistically valid sample compare rates, terms, and conditions offered each Section 272 affiliate with the rates offered unaffiliated carriers.

3. Obtain invoices for interLATA network services and facilities for one month (to be determined by the Oversight Team) rendered by the BOC to the Section 272 affiliate and other interexchange carriers (IXCs) that receive these services from the BOC. Using a statistically valid sample of billed items, inspect underlying details of invoice and compare rates, terms, and conditions charged each Section 272 affiliate with those charged other IXCs for the same services and note any differences. If differences are noted, pursue the matter further through inquiry of appropriate personnel and note why they occurred.

4. Using the invoices obtained in Procedure 3 above, trace the amount invoiced to each Section 272 affiliate for interLATA facilities and services and determine whether the amount invoiced was the amount recorded by the BOC and paid by each Section 272 affiliate. For this purpose, identify and inspect method of payment such as cancelled checks, wire transfers, and, if needed, summaries of invoiced amounts

corresponding to the amount paid. Note any differences and inquire as to why they occurred.

Arizona Corporation Commission
Docket No. T-00000B-97—238
Qwest Corporation
Exhibits of Marie E. Schwartz
Exhibit MES-9

# ANNUAL CODE OF CONDUCT TRAINING

Arizona Corporation Commission
Docket No. T-00000B-97—238
Qwest Corporation
Exhibits of Marie E. Schwartz
Exhibit MES-9

# ANNUAL CODE OF CONDUCT TRAINING

1801 California Street
Denver, Colorado 80202

ride the light
Qwest.

# Code of Conduct

6/30/00

The issuance of this Code does not represent an employment contract and creates no contractual rights between Qwest and employees. Unless covered by a collective bargaining agreement, employment with Qwest is at-will which means that either the employee or Qwest may terminate the relationship at any time, with or without cause.

Nothing in this Code, any Corporate Policies, or other communications by Qwest creates an employment contract or term of employment or any promise of specific treatment upon which an employee can rely.

Qwest reserves the right to change or modify this Code and associated policies for any reason, at any time, with or without advance notice.

# Contents

Dear Colleague:

As we work together at Qwest to change the way the world communicates, we have exciting new opportunities in a dynamic and competitive global marketplace. Amidst the change, one thing that must remain constant is our uncompromising commitment to act with integrity and to conduct business according to the highest ethical standards.

The trust and confidence of our customers, shareowners and employees remain our most valued assets and our reputation for honesty and integrity depends on the individual decisions we make every day.

That is why this Code of Conduct is so important.

- The Code emphasizes our commitment to executing work with excellence.

- It links our vision, business priorities and standards of conduct.

- The Code recognizes that we are faced with difficult decisions in a rapidly changing industry, and provides a framework and resources to help us make the right legal and ethical choices.

Please review this booklet carefully, ask questions to clarify how the Code relates to your job and report known or suspected violations. Let the Code serve as a guide to your conduct in meeting customer and shareowner expectations.

Sincerely,

Joe Nacchio

Joseph P. Nacchio
CHAIRMAN AND CHIEF EXECUTIVE OFFICER

# *Our Vision and Character*

Our vision is to build shareowner value by becoming the market leader for worldwide broadband Internet communications and application services.

- We put the customer first. At Qwest, customer service is our top priority. We are measured by customer standards.
- We are committed to creating shareowner value through growth, continued execution with excellence and speed to market.
- We are a team of innovators, demonstrated by our leading-edge technologies and our visionary approach to serving customers. We are results driven and accountable for our performance.
- We work hard, smart and fast to deliver innovative products and services.
- We demonstrate teamwork, flexibility, commitment, discipline and professionalism, leading by example through our words and actions.
- We are committed to open, honest and candid communication with all employees.
- We act with integrity. We conduct business safely and according to the highest standards of legal and ethical conduct, believing our reputation is key to our success.

## About the Code of Conduct

You must read and use the Code to help ensure that business decisions follow our commitment to ethics, our policies, and the law. Adherence to the Code and policies is essential to enhancing our ethical reputation among customers, shareowners, and employees.

The Code and policies are a guide to legal and ethical conduct at Qwest.

- Review this entire booklet. Think about how the Code and policies relate to your job and consider how you might handle situations to avoid illegal, improper, or unethical actions.

- If you have questions, ask your supervisor, Human Resources representative, Legal Affairs or the Corporate Compliance Advice Line (800-333-8938).

- The Code applies worldwide to all employees and others who represent or act on our behalf.

- Review the corporate policies that are applicable to you and your job. Understand what they require of you and where to ask for assistance.

Employees who violate this Code and corporate policies may be subject to disciplinary action – up to and including termination of employment.

## Make Ethical Decisions

A law or policy will sometimes dictate the required conduct to make an appropriate decision. More often, you must interpret the situation, seek advice and make ethical choices.

When facing a situation, ask these questions:

- Are there laws and regulations to consider?

- *Does the decision comply with Qwest policy and this Code?*

- How does this decision affect you and others (customers, shareowners, suppliers, partners, competitors, Qwest, and other employees)?

- How does the decision *look to others? Even an innocent action can have the* appearance of wrongdoing.

- How would it look if this decision were made public? Could it be explained?

- What implications will arise from this decision? Would additional advice be helpful? Your supervisor is usually in the best position to help. Contact the Corporate Compliance Advice Line if you need additional assistance.

## *Report Violations*

You are expected to recognize and report actual or potential problems and seek advice when you have a question. If you observe or suspect a violation of the law, the Code or Qwest policies, report it to your manager, or to the Corporate Compliance Advice Line (800-333-8938). Qwest investigates reports of suspected violations. Employees who, in good faith, report suspected violations, will not be subject to disciplinary action.

You may make anonymous reports. We will attempt to keep your name confidential if you make anonymous reports. However, if we determine that we should reveal an employee's identity to enforce this Code or to comply with applicable law or judicial process, we will do so.

You must cooperate in investigations of alleged violations of this Code and other corporate policies.

You are responsible if you violate the Code even if you report the violations.

We may discipline managers who condone, permit, or fail to take appropriate action against the illegal, unethical or improper conduct of others.

# *Maintain a Professional Work Environment*

Qwest values the unique contributions of each individual employee. We trust that as valuable members of the Qwest team everyone will treat one another with courtesy, respect and dignity. Managers at Qwest maintain an "open door" policy regarding employee questions. You are responsible for maintaining a professional and productive work environment and should bring questions and concerns to your manager.

## NON-DISCRIMINATION

Qwest supports equal employment opportunity and complies with affirmative action requirements. Do not discriminate or harass on the basis of race, gender, age, sexual orientation, religion, national origin, disability or covered veteran status. You are responsible for promoting a workplace free of unlawful discrimination and harassment.

## SEXUAL HARASSMENT

Sexual harassment is illegal and strictly prohibited. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, unsolicited physical contact, unwelcome flirtations, offensive verbal, visual or physical conduct of a sexual nature, suggestive or lewd remarks, unwanted hugs or touches, offensive jokes or visuals, pornography and sexually explicit material.

Sexual harassment can manifest itself in subtle ways. Actions made without any intention to harass may upset or offend others. Even conduct that does not rise to the level of unlawful sexual harassment may violate Qwest policy and be grounds for discipline.

### *Keep in Mind*

- *Call Human Resources/EEO with questions or concerns about discrimination or harassment. Report alleged violations of policy or law to the Corporate Compliance Advice Line (800-333-8938).*
- *We will not tolerate harassment in any form — conduct, speech, written notes, photos, cartoons, or electronic mail.*
- *Managers must report and take appropriate action on suspected violations of our non-discrimination and sexual harassment policies.*
- *You violate the law and this Code if you retaliate against an employee for making a good faith report or participating in the investigation of discrimination or harassment.*

# *Avoid Conflicts of Interest*

Always act in the best interests of Qwest and safeguard our reputation from any conflicts of interest or even the appearance of a conflict. Avoid any investment, interest, association, or activity that may cause others to doubt your judgment or integrity, or that interferes with your ability to perform job duties objectively and effectively.

## EMPLOYMENT OF RELATIVES

You may not supervise relatives or exercise direct or indirect influence over other employment decisions involving your relatives.

## OUTSIDE INTERESTS

If you or members of your family have financial interests in a competitor's or supplier's firm, you must not allow those interests to impact your ability to make impartial decisions on behalf of Qwest.

You must obtain advance approval from Legal Affairs if you plan to serve on an outside board (for-profit, non-profit, technical advisory). Report all time spent on outside board activities as *personal or vacation.*

If you hold a job outside of Qwest, it must not interfere with your ability to make decisions in the company's best interest or to perform your duties on behalf of Qwest during required business hours. Employment by a supplier or competitor is a conflict of interest and is not allowed unless approved by Corporate Compliance.

An employee's direct investment in stock, warrants or options issued by any other company may create a conflict of interest if the other company has a commercial or equity relationship with Qwest. To avoid a conflict of interest, Legal Affairs must approve, in advance, all direct investments, including "friends and family" programs.

You must notify your supervisor and Corporate Compliance prior to seeking or being appointed to public office.

### *Keep in Mind*

- *Do not use company time, materials, information or other assets in connection with outside employment or other personal interests.*
- *Disclose any potential or actual conflict of interest to Corporate Compliance.*
- *Consult with your manager or Corporate Compliance if you are uncertain whether a conflict exists.*

### Giving and Accepting Business Courtesies

Your interests conflict with those of Qwest when you use your position (directly or indirectly) for private gain, to advance personal interests or to obtain favors. If you are in a position to make or influence a decision regarding a business transaction between Qwest and a third party, you must not accept anything of substantial value from that party.

Avoid giving or accepting any item, including cash or its equivalent, that could be construed as a bribe or kickback, or that could give the impression of trying to influence business judgment.

The reasonable and infrequent offer or acceptance of refreshments, meals or entertainment in connection with business discussions is an acceptable business practice (if consistent with departmental procedures, business expense guidelines, and if properly approved).

Unique laws apply to government officials and employees. Understand applicable regulations when doing business with government agents or employees. Exercise good judgment in offering meals and other courtesies to public officials. In some instances, this is prohibited by law. For more information, contact Policy and Law or Corporate Compliance. If you conduct business internationally, understand and obey all applicable laws and regulations, including the Foreign Corrupt Practices Act.

## INSIDER TRADING

Federal law prohibits all employees and others from buying or selling Qwest securities (and those of other companies under certain conditions) based on information not publicly available that could affect the price of the securities. Do not disclose or use for your personal gain non-public information acquired by reason of your relationship with Qwest.

Such information includes: financial forecasts or results; product information; contracts; marketing plans; proposed acquisitions or divestitures; and strategic plans or information about significant changes or developments of Qwest or a company that does or has done business with Qwest.

Do not trade Qwest stock during "no trade periods" if you have been notified that you are subject to this restriction.

### *KEEP IN MIND*

- *Insider trading also includes "tipping" or telling others about insider information. If another person buys or sells securities based on your tip, you could be guilty of insider trading even if you yourself do not trade.*

- *Observe the "no trade periods" if you have been notified that you are subject to this restriction.*

# *Safeguard Our Employees and Our Assets*

You must protect Qwest's assets, safeguarding them against loss, damage, misuse or theft. Failure to do so has a direct impact on Qwest's profitability and ultimately on all of our jobs.

Assets include, but are not limited to: employees, facilities, property, equipment, computers, furnishings, tools, supplies, funds, time, communication systems, records (regardless of format — paper and electronic), information, trademarks, copyrights, patents, trade secrets and other intellectual property.

Use Qwest assets only for legitimate business purposes. Do not access company information or use Qwest assets for personal reasons. Qwest may inspect, disclose and exercise control over any and all of its documents, communications systems, equipment, facilities and other property at any time, with or without notice.

## ENVIRONMENTAL HEALTH AND SAFETY

**ENVIRONMENTAL PROTECTION** Qwest commits to protect the environment through initiatives to reduce the demands/impacts of our business on natural resources and the environment. We also promote various customer services that offer environmentally friendly alternatives to transporting people and goods.

You share the responsibility for making environmentally responsible decisions. Our environmental policies help you perform your job in an environmentally responsible manner and in compliance with applicable laws/regulations. You must report environmental hazards to your manager, who will take corrective action as necessary, after consulting with Environmental Health and Safety (EHS).

**SAFETY AND HEALTH** Qwest commits to providing you with a safe and healthful workplace free of recognized hazards. Meeting this commitment is a responsibility shared by Qwest and each of its employees.

We provide job-specific training, tools and resources to facilitate compliance with workplace safety and health laws/regulations and we expect employees to follow applicable safety practices. Managers are responsible for ensuring employees receive required safety training and for enforcing all applicable safety policies and procedures in the workplace.

We are required to report and record all work-related accidents. Accordingly, you must report work-related accidents immediately to your manager. Work-related accidents must also be reported to UNIcall (800-654-2525). Managers are also required to investigate all accidents. EHS is available to assist with accident investigations. In all cases, managers must contact EHS prior to beginning an investigation involving a fatality or serious third party liability.

Unsafe conditions must also be reported to your manager. If an unsafe condition exists, managers must provide necessary warnings or correct the situation as soon as possible. EHS is available to assist in the evaluation of these situations and to provide guidance in correcting unsafe conditions.

### *Keep in Mind*

- *Qwest attempts to anticipate and create management plans for crisis situations involving its assets and personnel. In the event of a crisis, corporate and state-level emergency response teams can be activated by calling the Qwest Disaster Recovery Hotline at 800-204-6540.*

- *Maintain a safe work environment. Know the hazards of all materials and equipment you work with and use the appropriate personal protective equipment and precautions.*

- *Report work-related accidents, hazardous situations, spills, and other incidents with environmental impacts to UNIcall (800-654-2525).*

- *Request that EHS evaluate the impact of real estate transactions and new products and services.*

- *Contact EHS immediately about environmental complaints, safety concerns, notices of inspection, subpoenas or search warrants and requests for access to company facilities by a government agency (e.g., OSHA, EPA).* ***Do NOT allow access before contacting EHS.***

- *Smoke only in designated exterior smoking areas during authorized meal and break periods.*

**WORKPLACE VIOLENCE** To preserve employee safety and security, we forbid weapons, firearms, ammunition, explosives, incendiary devices, and cases/holsters/ sheaths for weapons on company property, in company vehicles, in the workplace or while acting in a business capacity. Additionally, we will not tolerate acts or threats of violence (e.g., threatening language — verbal, written or visual — gestures, and behavior).

Report behavior that threatens the safety of employees or property or has the potential to become violent to Security (888-879-7328), your supervisor, Human Resources representative or the Corporate Compliance Advice Line (800-333-8938).

**OFF-DUTY MISCONDUCT** Off-duty misconduct may adversely affect workplace safety, your fitness for duty, or Qwest's corporate image. Managers must report any known arrest or conviction of any employee for a felony, misdemeanor or any other criminal offense to the Corporate Compliance Advice Line (800-333-8938). Employees who are in safety sensitive positions or who operate motor vehicles or aircraft must immediately report certain traffic tickets and violations to their supervisors.

**BACKGROUND VERIFICATION** Qwest may conduct background verifications for any reason, at any time. Depending on the circumstances, employment, transfer or promotion may be terminated based on the infomation obtained.

**DRUG AND ALCOHOL USE** The trust and confidence of our customers and shareowners, as well as the health and safety of our employees, depend on a workplace free from the effects of substance abuse. The misuse of drugs or alcohol negatively affects productivity, attendance and on-the-job safety. You are forbidden to sell, distribute, manufacture, dispense, possess, transfer or use illegal drugs or controlled substances during the work day, on company time, or on Qwest premises. You must not possess or use alcohol when working in a safety sensitive position. Illegal drugs, controlled substances and alcohol are prohibited in company vehicles. Alcohol may not be served or consumed on company premises without pre-approval from a company officer. When alcohol is served at social events attended in the course and scope of employment, employees who choose to consume alcohol must do so responsibly.

Employees unfit to work due to the effects of alcohol or drugs are subject to disciplinary action up to and including termination from employment. We reserve the right to conduct drug and alcohol search and screening procedures consistent with applicable laws. Breathalyzers or any other alcohol or substance abuse monitoring or ignition interlock device shall not be installed in any vehicle used for company business.

## PHYSICAL PROPERTY AND SECURITY

**ACCESS CONTROL** You must comply with the level of access control (including display of ID badges) implemented in the facility or building where you work. Allow only authorized visitors in the workplace and escort visitors throughout Qwest facilities.

**PERSONAL BELONGINGS** You are responsible for any personal belongings or valuables brought to the workplace. We assume no responsibility or liability for the loss of personal belongings. Qwest reserves the right to inspect any items of personal property brought to the workplace including bags, cases, parcels, or automobiles.

**COMMUNICATION SYSTEMS** Our communication systems are provided for business use. Exceptions for personal use require supervisory approval and must be consistent with company policies. Communication systems include but are not limited to: computers, telephones, video conference equipment and facilities, faxes, voice mail systems, Internet, intranet, e-mail, hard drives, disks and mail delivery systems.

You must prevent misuse of Qwest equipment and systems and must take precautions to protect them, (e.g., password protection and anti-virus software).

Do not install or use unauthorized software with Qwest computer equipment. Duplication of licensed software is prohibited unless specifically authorized in a written vendor licensing agreement. Violations may lead to action against individuals and the company.

We will report to authorities any individual access, transmission, or known receipt of illegal information through a Qwest communication system.

Qwest communication systems are Qwest property and are not private. You do not have a personal privacy right in any material created, stored, received or sent through a Qwest communication system (including computers, telephones, hard drives, disks, etc.).

By using Qwest communication systems, you consent to Qwest's monitoring these systems and acknowledge and agree to Qwest's right to conduct such monitoring. Qwest in its sole discretion reserves the right to access, monitor, copy, transcribe, forward, download, delete, capture and/or disclose all communications sent via any Qwest communication system, at any time, with or without prior notice.

### *KEEP IN MIND*

- *Use Qwest communication systems in a professional manner. Do not use them in a way that is disruptive, illegal, offensive or harmful to morale or Qwest's reputation.*

- *Unacceptable personal use includes, but is not limited to: transmission of threatening or sexually explicit material, chain letters, jokes, personal/unauthorized solicitations, invitations, and expressions of social or political causes; as well as participation in games or chat sessions.*

## INTELLECTUAL PROPERTY AND INFORMATION

**INTELLECTUAL PROPERTY** Our trade secrets often result from a significant investment of Qwest resources. Intellectual property is an important asset that helps with our competitive advantage and, therefore, must be protected. Examples of intellectual property include: the Qwest name, logo, trademarks, copyrights, patents, software, confidential information, ideas, inventions, discoveries, research, plans and strategies.

You must take measures to protect Qwest's intellectual property and to avoid infringing on the intellectual property rights of others. Refer any misuse or infringement of Qwest intellectual property to Legal Affairs.

Copyrightable works by Qwest must contain appropriate copyright notices and be protected against unauthorized copying or distribution.

Provide to Legal Affairs new product names and other trademarks or new product ideas that may be patentable.

**CONFIDENTIAL INFORMATION** You must safeguard all confidential information. Use the information for Qwest business only. Disclose it only to those people with a legitimate need to know. Do not discuss it with people outside Qwest, including family, and do not use it for personal gain. Do not leave confidential records out where they can be easily read by others.

Improper disclosure or receipt of confidential information can expose Qwest to liability and the loss of intellectual property rights. In conducting business, do not ask for information to which you are not entitled and do not disclose information that must remain private. Make sure that you understand and comply with the special rules regarding customer proprietary network information.

**COMPANY RECORDS** The law requires Qwest's books and records to accurately reflect transactions. Falsifying company records, including financial records, inventories, equipment installation and maintenance reports, sales transactions, product tests, permits/licenses, contracts, expense records, service records, payroll and time reports, approvals and authorizations is a serious offense that can lead to termination.

**PERSONNEL RECORDS** Access to personnel records is limited and must be obtained through Human Resources. Employee information is the exclusive property of Qwest and is confidential.

### *KEEP IN MIND*

- *Refrain from using any report or record to mislead or conceal any impropriety.*
- *Only reasonable, accurate, ordinary and necessary expenses incurred in conjunction with Qwest business may be submitted or approved for reimbursement.*
- *Qwest-provided credit cards may only be used for legitimate business purposes.*
- *You must manage, protect, maintain and dispose of records in an appropriate manner and in accordance with the records retention schedule. Records include all recorded information (e.g., paper, CD, disk, electronic, microfiche, e-mail, microfilm, etc.). All records, in any form, including e-mail and computers are subject to audit and inspection for compliance with Qwest policies and record maintenance requirements.*

**DISCLOSING INFORMATION TO THE PUBLIC** To conform with securities laws and antifraud requirements and to make accurate and timely disclosures about the company, Qwest has designated spokespersons who are the only personnel authorized to disclose information about Qwest to the public. Any contact with the media or the financial and investment communities must be directed to Corporate Communications. Any invitation to speak to outside groups must be forwarded to Corporate Communications for review and approval. The posting of any information to an Internet chat room is a voilation of Qwest policy.

# *Our Relationships with Others*

## OUR CUSTOMERS

Qwest provides services that reach into the personal and professional lives of our customers. They have entrusted us with their account information and communications data. Maintaining the privacy of customer information and communications is a serious responsibility. Our ability to attract and retain customers hinges on the manner in which we protect their information and communications. You must comply with the standards that have been developed for the care and safeguarding of customer information. Questions should be directed to FCC/Regulatory Compliance.

- Accessing Customer Records — Access customer accounts, records and reports only for authorized business purposes.

- Customer Communications — Customer communications (data and voice) are confidential. Never tamper with, record, listen to or divulge any customer communications, except when required in the proper management of the business or when required by law.

- Customer Information — We possess certain customer information that is subject to special protection under federal law/regulations (Telecommunications Act, Cable Act, FCC and Customer Proprietary Network Information requirements). Our customers may request that we restrict our use of the information. Also, customers have the right to direct us to provide information to other parties, including our competitors. We are obligated to comply with these requests to the extent required by law.

- Sales and Marketing — While we intend to aggressively market and sell our products and services, we must do so within the confines of the law. You must not engage in illegal or unethical activities to obtain business. You must accurately represent Qwest products and services.

- Unlawful Use of Qwest Services — If you suspect a customer is using Qwest services for unlawful purposes, you should report it immediately to Security.

## OUR COMPETITORS

Compliance with antitrust and unfair competition laws is very important to us. Because of the complexity of these laws, you should seek advice from Legal Affairs if you have questions.

The following guidelines will help you avoid violations of antitrust and unfair competition laws:

- Do not directly or indirectly enter into agreements that might limit competition or restrain trade. This would include price fixing, bid rigging, allocating markets or customers and boycotting. Never discuss or even listen to discussions of this nature with competitors

- Do not make false, misleading or disparaging remarks about individuals, their organizations or their products and services. Instead, focus on the quality and value of our products and services.

- Customers who are also competitors (e.g., carriers and interconnectors) must not be disadvantaged in the levels of service we provide to them. For example, Qwest may not improperly use wholesale customers' customer proprietary network information.

Gather information about the marketplace and our competition using only lawful and ethical methods (e.g., publicly available information, industry gatherings, research, surveys and product analysis).

Never steal or unlawfully use information, material, products, intellectual property or proprietary and confidential information of others. Doing so could constitute unethical or even illegal industrial espionage.

Likewise, you must always take steps to protect our operations from espionage or sabotage. Any attempt by others to gather or secure competitive information owned by Qwest must be immediately reported to Security or Legal Affairs.

### ***Keep in Mind***

*Never use the following improper means to gather information about competitors:*

- *Criminal acts such as burglary, wiretapping, stealing and bribery*

- *Misrepresentation or deception*

- *Dumpster diving or searching a competitor's waste for valuable information*

- *Hiring or surveying employees for the purpose of obtaining proprietary information belonging to their former employer*

### OUR SUPPLIERS

We do business with suppliers, contractors and consultants who demonstrate high principles of ethical business behavior and provide the best overall value for us.

We have detailed guidelines for the procurement of products and services. You must become familiar with and adhere to these guidelines (including the established approval and authority levels).

If you have a personal or family relationship or a financial interest in a supplier, you must take steps to ensure that decisions affecting those suppliers are based solely on objective input and judgment.

Do not accept gifts or business courtesies of substantial value from suppliers. Reasonable and infrequent acceptance of meals, refreshments or entertainment in connection with business may be appropriate. For additional information contact Procurement.

## *Government Relations*

Our interactions with government personnel are important to our continued success, whether they are customers to us or serving in other official capacities. We have a special obligation to know the laws, regulations and ethical standards of the various branches of federal, state and local governments.

### GOVERNMENT RELATIONS AND BUSINESS DEALINGS

Contracting with a federal, state or local government is a unique part of our business. When we contract with a government, we are in effect contracting with the public. This places us in a position of trust, with special opportunities and special responsibilities. Always avoid activities that may be perceived as attempts to improperly influence government agencies, officials and employees.

You must not authorize, offer, provide, accept, deliver or solicit any payments, gratuities or favors (either directly or indirectly) for purposes of influencing any government official or employee. This may be illegal. Additional rules may apply internationally.

As a supplier to the government, we sometimes have responsibility for working with highly sensitive information. This information is often classified and essential to our national security. Proper treatment and protection of such information must be a high priority. In certain situations, security clearances are required to obtain information or provide services on a government contract.

Federal and state laws govern the hiring of former government employees and procurement officials. Legal Affairs must approve any discussions of employment with government employees.

We regularly provide information and share opinions with government officials and candidates for elective office. If you represent Qwest in this capacity, you must do so within all appropriate business conduct and legal boundaries. Policy and Law is responsible for retaining and managing consultants performing legal work, lobbying services, legislative/regulatory consulting or witness services on behalf of Qwest. All information and reports provided to the government must be accurate and complete. It is absolutely essential that proper procedures be followed in recording costs and charges to the government.

### *KEEP IN MIND*

- *Any prospective government proposal or contract (including substantial modifications) must be approved by Legal Affairs.*

- *Contact Policy and Law for information on the unique state and federal laws and compliance requirements for dealing with government employees and public officials.*

## POLITICAL CONTRIBUTIONS AND ACTIVITIES

We encourage employees to participate in the political affairs of their communities and country on an individual basis, on their own time and at their own expense.

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## POLITICAL CONTRIBUTIONS AND ACTIVITIES

We encourage employees to participate in the political affairs of their communities and country on an individual basis, on their own time and at their own expense.

*You are not authorized to make direct or indirect political contributions of any kind on behalf of Qwest.*

Qwest has established various Political Action Committees (PACs). PACs are voluntary, non-profit, independent organizations which may accept contributions and make expenditures for electing candidates for public office, consistent with applicable laws and regulations. You may, where eligible, make contributions to a Qwest-sponsored PAC. We will make contributions only from accounts and through procedures that are allowed by law.

When you speak out on public issues, make sure you do so as an individual, unless specifically authorized to do otherwise. When speaking as an individual, you must not give the impression you are speaking or acting on Qwest's behalf.

If you run for public office, serve as a public official or campaign for a political candidate, you cannot be paid by Qwest for any time spent in these activities, unless otherwise approved and allowed by law.

## GOVERNMENT INVESTIGATIONS

We cooperate with appropriate government investigations into possible violations of the law. In this context, however, it is important to protect Qwest's property and legal rights.

If served with a subpoena or search warrant, immediately contact Legal Affairs or EHS (for safety or environmental issues).

Any time you are approached by someone claiming to be a government investigator, you should contact Legal Affairs before answering any questions or providing any information or records. Non-supervisory employees are not required to make these contacts before speaking with government investigators about employment, labor or safety issues, but are invited to do so since we have internal mechanisms to deal with such concerns.

Records are the property of Qwest (regardless of who creates, keeps or updates them) and must not be produced for government investigations without contacting Legal Affairs.

## AFFILIATE RELATIONSHIPS

State and federal regulatory requirements govern the relationship and business transactions between the various affiliates of Qwest.

These requirements cover:

- Asset transfers
- Provision of products and services
- Allocation of costs between regulated and unregulated entities
- Information flow between entities
- Technology compensation
- Affiliate restructuring

The rules are often complex and may create special requirements for record keeping, reporting and regulatory approvals.

Contact Legal Affairs or Regulatory Accounting for questions regarding the relationships or business dealings between Qwest affiliates.

## SERVICE OF LEGAL DOCUMENTS

We must respond to properly served legal documents in a timely manner. Failure to respond appropriately can have severe negative consequences. If you receive an inquiry regarding the service of a legal document, you must advise the server that you are not authorized to accept the legal document, and then you must refer the server to Legal Affairs. Legal Affairs is responsible for authorizing receipt of service of legal documents and retaining outside legal counsel. If you are served at home, on the job or in the mail with legal documents relating to Qwest activity immediately contact and forward the documents to Legal Affairs.

# *International Business*

As a responsible member of the international business community, we provide quality products and services at fair prices and we compete on the merits of our products and services, not on favors. Our commitment to fair competition includes avoiding corrupt business practices and keeping accurate business records that help prevent such practices.

We recognize that in some international markets we will encounter laws, customs and cultural practices that differ from those of the U.S. We will comply with all applicable U.S. regulations and restrictions in dealing with other countries, as well as foreign laws and restrictions that apply in those countries.

The laws governing international business are comprehensive and involve corrupt business practice prohibitions, export controls, trade sanctions and anti-boycott requirements. These laws are often complex and subject to change. Consult with Legal Affairs for questions on international business dealings.

## FOREIGN CORRUPT PRACTICES ACT

Under the Foreign Corrupt Practices Act (FCPA), our status as a publicly held corporation requires that we establish internal accounting controls and conform to generally accepted accounting principles in all operations worldwide. All payments, transactions and accounts must be accurately and truthfully recorded and reported.

The Foreign Corrupt Practices Act also prohibits us (and our employees and agents) from directly or indirectly offering, promising to pay, or authorizing the payment of money or anything of value to foreign government officials, political parties or candidates for the purpose of influencing their acts or decisions.

Failure to comply with the FCPA can result in substantial penalties for both individuals and corporations. This can include fines, imprisonment and loss of government supplier privileges.

## EXPORT CONTROLS AND INTERNATIONAL BOYCOTTS

Several U.S. laws restrict trade with certain countries. Other laws restrict export of certain technologies (including products, services, data and knowledge). Our operations worldwide must comply with U.S. export restrictions. Employees who are uncertain of the legal trade status of any country or technology should contact Legal Affairs.

You may not cooperate in any way with unsanctioned foreign boycotts of countries friendly to the U.S. Any request for information or action that seems to be related to any illegal boycott must be reported immediately to Legal Affairs.

# *Resources*

Corporate Compliance has overall responsibility for the implementation of the Code of Conduct and all corporate policies. Employees are accountable for knowing and abiding by the corporate policies and this Code. You are expected to review and become familiar with the corporate policies.

The Code and policies may be found at the Corporate Compliance intranet site on The Q under departments.

The following resources are also available if you have questions about Qwest standards and policies:

**Corporate Compliance Advice Line ........................................ 1-800-333-8938**

Conflict of Interest Issues ........................................ 1-800-333-8938

Corporate Communications - Media Inquiries ........................................ 303-992-2155

Public Speaking Requests ........................................ 303-965-3007

Disaster Recovery Hotline ........................................ 1-800-204-6540

Environmental Health and Safety Issues ........................................ 303-672-2925

FCC/Regulatory Compliance ........................................ 402-422-7689

Human Resources ........................................ 303-992-3184

Legal Affairs ........................................ 303-672-2756

Policy and Law ........................................ 303-896-3040

Procurement ........................................ 1-877-311-5141

Records Management ........................................ 303-672-2802

Regulatory Accounting ........................................ 303-896-5997

Security ........................................ 1-888-879-7328

UNIcall (Reporting claims and EHS assistance) ........................................ 1-800-654-2525

# *Index and References*

NOTE: THE CODE OF CONDUCT AND ALL THE POLICIES LISTED BELOW CAN BE FOUND AT THE CORPORATE COMPLIANCE INTRANET SITE.

# SECTION 272 EMPLOYEE TRAINING

ride the light

Qwest

# Conducting Business After Long Distance Re-Entry

## Section 272 Compliance

# Employee Obligations and the Telecommunications Act

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## Employee Obligations

- Every Qwest employee is expected to understand Section 272 requirements
- What should you do if you have questions about Section 272?
  - Refer them to your supervisor, or
  - Contact your FCC/Regulatory Compliance Manager

    FCC/Regulatory Compliance Managers may be found at:
    http://denntwsi014.qwest.net:1980/departments/compliance/Training/cpni_main.html

## Telecommunications Act of 1996

- Prior to 1996, the Regional Bell Operating Companies (RBOC) like Qwest Corporation (QC) were prohibited from providing interLATA services within their service territories
- The 1996 Telecommunications Act (Act) allows an RBOC to provide interLATA services within its region once certain requirements are met
- Requirements are primarily outlined in Section 271 and Section 272 of the Act

## Definitions

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- Qwest Communications International Inc.: the publicly-traded parent company of all Qwest affiliates

- Qwest Corporation (QC): formerly known as U S WEST Communications, Inc., QC is the"pre-merger U S WEST" incumbent local exchange carrier and Regional Bell Operating Company (RBOC)

- Qwest Communications Corporation (QCC): the "pre-merger Qwest" operating company and separate 272 affiliate of QC through which Qwest will ultimately provide in-region, interLATA services upon receipt of 271 relief

# Section 271 Overview

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- Defines requirements QC must meet to show that the local market is open to competition so that it can enter the in-region, interLATA long distance market

- Contains 4 key provisions plus audit requirements

  1. Competitive checklist - also know as the "14-point checklist"

  2. Interconnection agreements or Statement of Generally Available Terms and Conditions (SGAT)

  3. Section 272 affiliate to provide in-region, interLATA long distance service

  4. Public interest showing that demonstrates QC has opened its local markets to competition

# Section 272 Requirements

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- Qwest Communications International Inc. must create a separate affiliate and properly operate the separate affiliate in order to be permitted to offer in-region, interLATA long distance service:
  - Section 272 (a) - Separate Affiliate
  - Section 272 (b) - Structural and Transactional
  - Section 272 (c) - Nondiscrimination
  - Section 272 (d) - Biennial Audit
  - Section 272 (e) - Fulfillment of Certain Requests
  - Section 272 (f) - Sunset Rules
  - Section 272 (g) - Joint Marketing Provisions
- Section 272 defines the separate affiliate structure and business relationship between QC and QCC, which is known as the Section 272 or long distance subsidiary

# Section 272 Requirements

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**272(a) - Separate Affiliate**

- QC may only offer in-region, interLATA long distance service through a separate affiliate

**272(b) - Structural and Transactional**

- This section is a critical component of Section 272
  - Assures competitors that QC and QCC are operating independently and QCC is not receiving preferential treatment that would give it an unfair advantage in the market

- 5 key provisions must be demonstrated to show separateness
  - Operate independently
  - Separate books, records, and accounts
  - Separate officers, directors, and employees
  - Creditors of QCC may not have recourse to QC assets
  - Transactions at arm's length, reduced to writing, and posted on the Internet

# Section 272 Requirements

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**272(b)(1) - Operate Independently**

- QC and QCC cannot jointly own network facilities, or the land or buildings where those facilities are placed
  - No transfer of any network facilities from QC to QCC
  - No operation, installation, or maintenance (OI&M) of QC's facilities by QCC
  - No OI&M on QCC facilities by QC or any other Qwest affiliate
- QC cannot provide discriminatory access to network service

**272(b)(2) - Separate Books, Records, and Accounts**

- QCC must maintain books, records, and accounts separate from the books, records, and accounts of QC

# Section 272 Requirements

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**272(b)(3) - Separate Officers, Directors, and Employees**

- QC and QCC cannot share officers, directors, or employees
- Employees who perform functions supporting QCC are required to report their time so that QCC can be billed appropriately

**272(b)(4) - Creditors of QCC may not have recourse to QC Assets**

- QCC cannot obtain credit under any arrangement that would permit a creditor to have recourse to QC's assets

- QCC's obligations are not co-signed by QC; nor are they co-signed by Qwest Communications International Inc. in a manner that would allow recourse to the assets of QC

# Section 272 Requirements

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**272 (b)(5) - Transactions at Arm's Length, Reduced to Writing, and Posted on the Internet**

- All transactions between QC and QCC must be reduced to writing
  - Transactions are documented by tariff, stand-alone agreement, or service agreements
- All transactions between QC and QCC must be posted to the Internet within 10 days by Regulatory Accounting
- Rates, terms, and conditions of every transaction must be publicly available to ensure accounting safeguards are maintained

**If you are a QC employee providing service to QCC,**
**or a QCC employee providing service to QC,**
**make sure Regulatory Accounting is involved.**

# Section 272 Requirements

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**272(c) - Nondiscrimination**

- QC must provide the goods, services, facilities, and information it provides to QCC to other long distance carriers at the same rates, terms, and conditions
- How does QC and QCC demonstrate compliance with Section 272(c)?
  - QCC must obtain information and services through the same QC processes as other interexchange carriers
  - QCC must obtain other services through a QC carrier account team in the same manner as other interexchange carriers
  - QC must post transactions between QC and QCC on its Internet site

**Generally, QC employees must treat Qwest Communications Corp like any other long distance carrier.**

# Section 272 Requirements

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**272(d) - Biennial Audit**

- Section 272 requirements will be audited every two years beginning twelve months after Section 271 authority is obtained and QCC is providing in-region, interLATA long distance services

**272(e) - Fulfillment of Certain Requests**

- QC is prohibited from providing any facilities, services, or information concerning its provision of exchange access to QCC unless such facilities, services, or information are made available to other providers of interLATA services under the same terms and conditions

# Section 272 Requirements

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**272 (f) Sunset Provision**

- The provisions of Section 272 (other than subsection (e)) shall cease to apply three years after the date that QC or QCC is authorized to provide interLATA services, unless the FCC provides an extension

**272(g) - Joint Marketing Provisions**

- Provides one clear exception to Section 272(c) nondiscrimination requirements
  - Once Section 271 authority is secured, QC may jointly market in-region, interLATA long distance services with QCC
- Like all transactions, QC must document joint marketing agreements and post them to the Internet within 10 days

# What does Section 272 mean to me?

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- You must understand which legal entity you work for. Is it QC, QCC or another Qwest affiliate?
- If you are providing service to another entity, you must make sure Regulatory Accounting is involved so the transaction can be recorded under FCC rules
- If you are a QC employee, you must generally treat QCC like any other long distance carrier
- If you are a network employee, you must understand joint network and OI&M restrictions
- If you have questions, contact your supervisor or FCC/Regulatory Compliance Manager
- If you still have have questions after talking to your supervisor or FCC/Regulatory Compliance Manager, you may:
  - Send email questions to "ask272@qwest.com"
  - Section 272 Affiliate Transactions web site at www.qwest.com/about/policy/docs/long_distance.html
  - Corporate Compliance Advice Line 800-333-8938

Arizona Corporation Commission
Docket No. T-00000B-97—238
Qwest Corporation
Exhibits of Marie E. Schwartz
Exhibit MES-11

# TARGETED WHOLESALE DEPARTMENT TRAINING

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# Conducting Business with Qwest Communications Corporation

## Section 272 Compliance for Qwest Corporation Wholesale Employees

# Employee Obligations

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## Employee Obligations

- Please ensure that you have first read the 272 overview package, Conducting Business after Long Distance Re-Entry, found at: http://theq.qwest.net/Departments/legal/training/272training.pdf

# What does all this mean to me as a Qwest Corporation Wholesale employee?

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- Qwest Corporation (QC) is prohibited from discriminating between Qwest Communications Corporation (QCC) and any other entity in the provision or procurement of goods, services, facilities, and information, or in the establishment of standards. With the exception of joint marketing activities, all permitted services provided to QCC must be made available to any other non-Qwest entity under the same terms, conditions and price as provided to QCC.
  - When QCC identifies a need for products, services and information from QC, QCC must submit that request via a formal review process to ensure compliance with the nondiscrimination obligations
  - When other carriers request goods, services, facilities, or information from QC, those requests must be submitted via another review process to determine if similar requests have been granted to QCC. If so, these same goods, services, facilities, and information must be made available to other carriers under the same terms and conditions.

# Qwest Communications

## Corporation Request Process

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1. QCC will complete a "Qwest Communications Corporation Request for Affiliate Provided Products/Services/Information" form detailing their business needs. This form can be found at http://theq.qwest.net/departments/legal/training/requestforservices.doc

2. Any request for standard tariff offerings will continue to go through the QC Wholesale Carrier Account Team for QCC.

3. QCC will submit the form to their QC Wholesale Senior Account Manager for review and consideration.

   - if the service is not offered by QC - QCC will contact the party directly.
   - if the request is for a service currently offered under the Master Services Agreement the Senior Account Manager will forward the request to the Business Unit Affiliate Manager to prepare a work order.

# Qwest Communications Corporation Request Process

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4. The form is forwarded to the Compliance Team. If this is a new request, the Compliance Team will discuss the request with Legal and the associated business unit to determine the risks to the corporation and the business units willingness to provide the product/service/information to QCC and if necessary, to others, if asked.

5. After a determination is made, the QC, Wholesale Senior Account Manager is notified of the outcome of the request.

6. The Senior Account Manager notifies QCC of the "yes" or "no" answer.

   - if the answer is "no" - QCC can appeal the decision to QC officer level.
   - if the answer is "yes" - the QCC Senior Account Manager sends the request to FCC Regulatory Accounting at Qwest.

# Qwest Communications Corporation Request Process

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7. FCC Regulatory Accounting will check to see if an existing Master Services Agreement exhibit covers this new request.

   - if it does, the QC, Wholesale Senior Account Manager forwards the request to the Business Unit Affiliate Manager (BUAM) to prepare a work order.

   - if it is not covered under an existing Master Services Agreement, the Agreement is amended and approved by QC and QCC. In addition, a new work order is prepared, priced, and approved.

8. New work orders must be approved before the service/product requested can commence.

9. The approved documents (work order/Master Service Agreement Amendment) must be posted on the Internet within 10 days.

# Requests Made by Other Interexchange Carriers

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If the Wholesale Carrier Account Team receives a request for non-standard goods, services, facilities or information (other than FCC 5 products) from other interexchange carriers, the Account Manager must:

1. Forward the request to FCC Regulatory Accounting.

2. FCC Regulatory Accounting will verify if the service is being offered to QCC.

3. If it is, FCC Regulatory Accounting will contact the business unit offering the service.

4. The business unit will work out the details of the service with the interexchange carrier.

# Requests Made by Other Interexchange Carriers

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5. An agreement is drawn up between QC and the interexchange carrier.

6. The business unit will forward the agreement to FCC Regulatory Accounting who verifies the pricing is consistent with the QCC terms.

7. FCC Regulatory Accounting will notify the business unit to proceed with the service.

8. The business unit will begin to provide the service.

9. The services are billed to the interexchange carrier via the Billing and Accounts Receivable Tracking (BART) system.

# Where can I go for more information?

- FCC/Regulatory Compliance Manager - Debi Adams, 503 242-4617
- Send email questions to "ask272@qwest.com"
- Corporate Compliance Advice Line - 1-800 333-8938
- Carrier Wholesale Organization – www.qwest.com/wholesale
- Qwest Corporation Effective Tariffs – http://tariffs.uswest.com:8000/iiop/WAImap?objectid=0-2826
- Section 272 Affiliate Transactions Web site www.qwest.com/about/policy/docs/long_distance.html

EXHIBIT MES-12

Confidential and Proprietary

(REDACTED VERSION)

ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

| | | |
|---|---|---|
| **IN THE MATTER OF U S WEST COMMUNICATIONS, INC.'S COMPLIANCE WITH SECTION 271 OF TELECOMMUNICATIONS ACT OF 1996** | ] | **DOCKET NO. T-00000B-97-238** |

**AFFIDAVIT OF**

**JUDITH L. BRUNSTING**

**QWEST COMMUNICATIONS CORPORATION**

**MARCH 26, 2001**

**Confidential and Proprietary**

**(REDACTED VERSION)**

## Table of Contents

## I. IDENTIFICATION OF AFFIANT

My name is Judith L. Brunsting. I am employed by Qwest Communications Corporation ("QCC") as Executive Director, 272 Implementation and Compliance. I am responsible for regulatory and public policy issues as well implementing requirements and coordinating activities associated with Section 272 compliance. I am a graduate of Nettleton Business College with a degree in Accounting. I have more than 30 years experience in the telecommunications industry with an emphasis in engineering, marketing, regulatory, and planning. I have held positions in the Network, Public Policy, and Wholesale organizations within the former U S WEST Communications, Inc. In 1995, I became the Director, Regulatory, for Time Warner Communications responsible for obtaining and maintaining state and federal certification. I assumed the position of Director, Regulatory, for U S WEST Long Distance, Inc. in 1997. Network responsibilities were added to this position in 1999. I was appointed to my current position for Qwest Long Distance in November, 2000. Recently, the position has transferred to Qwest Communications Corporation, the 272 Affiliate.

## II. PURPOSE OF AFFIDAVIT

The purpose of my affidavit is to provide this Commission with information relating to progress Qwest Communications Corporation, my employer, the 272 Affiliate (hereafter "272 Affiliate") has made with regard to Section 272 of the Telecommunications Act of 1996 ("Act") and to show that the 272 Affiliate is prepared to satisfy Section 272 requirements once Qwest Corporation, (hereafter the "BOC"), obtains Section 271 authority.

I will demonstrate that the 272 Affiliate will follow Sections 272(a) "Separate Affiliate Required for Competitive Activities", 272(b) "Structural and Transactional Requirements", and 272(g) "Joint Marketing" of the Act, and related rules as determined by the Federal Communications Commission ("FCC"), upon the BOC's receipt of in-region, interLATA authority in the state of Arizona.

My affidavit also discusses the nondiscriminatory safeguards described in Section 272(c) of the Act. Although not specifically directed at the long distance affiliate, with the exception of the express exemption set forth in Section 272(g), the BOC may not provide greater access to any goods, services, facilities, or information to the 272 Affiliate than any other interexchange carrier. Further, all transactions between the 272 Affiliate and the BOC must be accounted for in accordance with the FCC's affiliate transaction rules. My affidavit demonstrates the business processes the 272 Affiliate has in place to comply with these safeguards and ensure arm's length transactions for the services it receives and provides.

My affidavit also explains the steps the 272 Affiliate has taken to ensure it satisfies these requirements of Section 272, including implementation of employee training and awareness efforts.

Before discussing the facts showing that the 272 Affiliate is prepared to satisfy Section 272, it is important to distinguish the difference between Section 272 and Section 271 satisfaction. Section 271 sets forth the requirements that must be satisfied before the BOC can enter the in-region, interLATA market. Section 272 defines how the BOC or any affiliate of the BOC must operate when offering such interLATA services once the BOC receives Section 271 authority. Thus, there is no specific requirement that the 272 Affiliate meet Section 272 obligations now; rather it must only demonstrate that it will comply with the requirements of Section 272.[1] The 272 Affiliate must present evidence that it is prepared to operate under the terms of Section 272 once the BOC is granted authorization to provide in-region, interLATA services in the state of Arizona. In essence, the Commission must make a "predictive judgment" about whether Section 272 satisfaction appears likely. The FCC has recognized this distinction in its Section 271 decisions.[2]

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1 *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York*, CC Docket No. 99-295, Memorandum Opinion and Order, FCC 99-404 (rel. Dec. 22, 1999), ¶403 (hereinafter "BANY Order"); *Application by SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas*, CC Docket No. 00-65, Memorandum Opinion and Order, FCC 00-238 (rel. June 30, 2000), ¶394 (hereinafter "SBC-Texas Order").

2 *Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana*, CC Docket No. 98-121 (rel. Oct. 13, 1998), ¶321 ("requires a predictive judgment regarding the future behavior of the BOC.") (hereinafter "BellSouth-LA II Order); BANY at ¶402; SBC-Texas Order at ¶395.

## III. EXECUTIVE SUMMARY

My affidavit discusses the relationship between several different companies within the Qwest corporate family. These companies are discussed repeatedly in my affidavit: 1) Qwest Communications Corporation ("QCC"), 2) Qwest Corporation ("QC"), 3) Qwest Services Corporation ("QSC"), and 4) Qwest Communications International Inc. *Given the similarity of the acronyms* between the companies, it may be difficult to review my affidavit if the companies were referred to in that manner. Consequently, in my affidavit I will refer to QCC as the Section "272 Affiliate"; QC as the "BOC"; and Qwest Services Corporation, the parent of the 272 Affiliate and the BOC, as the "Services Company".

My affidavit provides the Commission with information relating to the progress the 272 Affiliate has made with regard to Section 272 of the Act. I provide an overview of the 272 Affiliate's processes and procedures, which establishes that the 272 Affiliate is prepared to offer service in compliance with Section 272. The affidavit of Ms. Marie E. Schwartz, an employee of the BOC (formerly U S WEST Communications, Inc.), provides additional evidence as to how these requirements are being implemented within the BOC.

I demonstrate that the 272 Affiliate will satisfy all of the relevant requirements of Section 272, and the related rules directed by the FCC, following the BOC's receipt of in-region, interLATA authority in Arizona. The 272 Affiliate is a separate affiliate that will offer originating interLATA services in Arizona upon approval.

There are three provisions of Section 272 that directly affect the 272 Affiliate as a Section 272 affiliate, subsections (a), (b), and (g). My affidavit will address each of these provisions and how the 272 Affiliate is prepared to satisfy each of them.

Section 272(a) of the Act requires that the BOC provide interLATA long distance services through one or more separate long distance affiliates. Long distance services will be offered by Qwest, upon approval, by a separate long distance affiliate, the 272 Affiliate.

Section 272(b) requires the 272 Affiliate to operate independently from the BOC; maintain separate books, records, and accounts; have its own directors, officers, and employees; obtain credit that will not provide recourse to the assets of the BOC; and, conduct all transactions with the BOC on an arm's length basis, with all such transactions reduced to writing and available for public inspection. The 272 Affiliate will satisfy these requirements of the Act.

Section 272(g) sets forth guidelines on how the 272 Affiliate and the BOC can jointly market interLATA long distance services. The 272 Affiliate will adhere to these requirements of the Act.

I will also discuss the employee training and awareness efforts that the 272 Affiliate has implemented to ensure it continues to follow the applicable Section 272 requirements.

## IV. THE 272 AFFILIATE SATISFIES THE SEPARATE AFFILIATE REQUIREMENTS OF SECTION 272(a)

I have confirmed that the 272 Affiliate ("QCC") is an indirect, wholly owned subsidiary of Qwest Communications International Inc., a Delaware corporation. The 272 Affiliate is a duly formed and existing corporation organized under the laws of the State of Delaware as shown in Exhibit JLB-1. The 272 Affiliate and the BOC are both subsidiaries of Qwest Service Corporation ("QSC" or "Services Company") which is a wholly owned subsidiary of Qwest Communications International Inc. See Exhibit JLB-2. The 272 Affiliate is not a subsidiary of any Qwest Communications International Inc. BOC or affiliated ILEC. In addition, I have confirmed that the 272 Affiliate owns no stock of the BOC nor does the BOC own any stock of the 272 Affiliate. Thus, as both a legal and practical matter, the two companies are separate.

The 272 Affiliate currently holds a certificate of authority to transact business from the Secretary of State in each of the fourteen (14) states that comprise the BOC's territory. The 272 Affiliate's "Certificate of Disclosure" for Arizona provides it with authority to operate in the state. See Exhibit JLB-3.

Prior to the merger of Qwest and U S WEST, U S WEST had formed U S WEST Long Distance as a separate affiliate to provide in-region, interLATA telecommunications services in its 14-state territory once Section 271 authority was granted. At that time, U S WEST Long Distance was planning to offer in-region, interLATA long distance service as a reseller, using the underlying facilities of various carriers.

In the summer of 2000, once the merger was completed, U S WEST Long Distance's name was changed to Qwest Long Distance. In the fall, Qwest revisited the strategy of offering interLATA services in-region considering the new merger entity. About mid-January, QCC was identified as the 272 subsidiary to offer interLATA telecommunications service. A plan was developed to transition QCC to be 272 compliant. The activities included placing employees in the appropriate Qwest entity, evaluating and documenting all transactions between the 272 Affiliate and the BOC, posting all such transactions, training employees, and ensuring all other separateness requirements of 272.

Qwest Long Distance continues to exist today as a fully compliant 272 subsidiary. Currently, plans are to merge Qwest Long Distance with QCC in the May, 2001 timeframe.

## V. THE 272 AFFILIATE COMPLIES WITH THE STRUCTURAL AND TRANSACTIONAL REQUIREMENTS OF SECTION 272(b)

Section 272(b) contains five "structural separations" that the BOC and the 272 Affiliate must maintain for as long as the requirements of Section 272 are in force.

### A. Section 272(b)(1) – Operate Independently from the BOC

First, Section 272(b)(1) requires the 272 Affiliate to operate independently from the BOC. Several facts show that the 272 Affiliate satisfies this provision:

a. The 272 Affiliate does not and will not jointly own, with the BOC, telecommunications transmission and switching facilities, or the land and buildings on which such facilities are located.

b. The 272 Affiliate is not currently providing to the BOC operations, installation, or maintenance ("OI&M") services in connection with the BOC's switching and transmission facilities, nor will it provide these services to the BOC as long as Section 272 is in force.

c. The 272 Affiliate will not accept from the BOC or any other Qwest affiliate OI&M services in connection with the 272 Affiliate's switching and transmission facilities.

Qwest's 272 Affiliate plans to provide its own in-region, interLATA long distance products and services. It will use its own transmission and switching facilities and obtain wholesale network services from one or more unaffiliated carriers. The 272 Affiliate will perform OI&M on its own network facilities.

The FCC did not preclude the 272 Affiliate and its affiliated BOC from providing telecommunications services to one another.[3] For example, if the 272 Affiliate obtains a tariffed exchange service or exchange access service from the BOC, the BOC may provide the OI&M functions on its own network used to provide that service to the 272 Affiliate. Likewise, if the BOC were to obtain a long distance service from the 272 Affiliate, then the 272 Affiliate would be allowed to provide the OI&M functions on the facilities used to provide that service. Training materials have been developed and delivered to numerous network leaders to ensure compliance with the specific provisions of Section 272(b)(1).

### B. Section 272(b)(2) – Separate Books, Records, and Accounts

Section 272(b)(2) requires that the 272 Affiliate maintain books, records, and accounts that are separate from the books, records, and accounts of the BOC. Several facts show that the 272 Affiliate satisfies this provision:

a. The 272 Affiliate follows Generally Accepted Accounting Principles ("GAAP"), as adopted by the FCC in Docket 96-150. The 272 Affiliate's books, records, and accounts are maintained in accordance with GAAP and consolidated into Qwest Communications International Inc.'s financials. Since Qwest Communications International Inc. is a publicly held corporation, subject to federal securities statutes, it reports its financial activities in accordance with GAAP.

b. Qwest Communications International Inc.'s consolidated financial statements as contained in the Form 10-K filed with the Securities and Exchange Commission ("SEC"), include the report of its independent auditor, Arthur Andersen, L.L.P., which provide a positive opinion that Qwest Communications International Inc. has prepared its financial statements in conformance with GAAP. These financial statements include the consolidated results of the 272 Affiliate.

c. The 272 Affiliate has established and maintains a Chart of Accounts that is separate from the BOC's Chart of Accounts as shown in confidential Exhibit JLB-4.

d. The 272 Affiliate will maintain a separate set of financial statements from those of the BOC for internal and corporate use. Although these statements are not publicly released, the financial information is consolidated into Qwest Communications International Inc.'s publicly available financial reports. These separate financial statements will be available in early May.

e. The 272 Affiliate maintains expenditure controls that ensure the 272 Affiliate's funds are expended appropriately. The necessity and accuracy of an expense or capital expenditure is the responsibility of the employee. When an employee initiates payment of funds, the employee is certifying that a valid business purpose exists for the expenditure. All expenditures also require an approver to certify and review the documentation associated with the expenditure. The immediate supervisor approves all personal expenditures. Policies, which specify the amount each level of management is allowed to approve, exist for expenditures related to third party vendors.

f. The ledger system of the 272 Affiliate is separate from the BOC's ledger system. The system contains "edits" to control and validate appropriate classification of expense. The books are part of the annual financial audit conducted by an external auditor.

g. The 272 Affiliate's accounting and finance functions are performed on behalf of the 272 Affiliate by the Services Company.

h. The 272 Affiliate has its own federal tax identification number that is separate from the BOC's federal tax identification number.

[3] Non-Accounting Safeguards Order, 11 FCC Rcd at 21, 984-85, at ¶164.

i. The 272 Affiliate pays applicable taxes and fees to various taxing and regulatory agencies separately from the BOC.

j. The 272 Affiliate complies with state and FCC regulatory reporting requirements separately from the BOC.

### C. Section 272(b)(3) – Separate Officers, Directors, and Employees

Section 272(b)(3) requires the 272 Affiliate to have separate officers, directors, and employees from the BOC. The 272 Affiliate satisfies this provision as shown by the following facts:

a. The 272 Affiliate has no officers, directors, or employees that are also officers, directors, or employees of the BOC.

b. No director of the 272 Affiliate will also act as a director of the BOC and, as long as the requirements of Section 272 remain in force, no director of the 272 Affiliate will also simultaneously act as a director of the BOC.

c. The 272 Affiliate has two (2) directors, Drake Tempest and a recent vacancy. Mr. Tempest is not an officer or a director of the BOC. Exhibit JLB-5 provides a complete listing of the 272 Affiliate's Board of Directors and officers, none of whom are employees, officers, or directors of the BOC. Further, Exhibit JLB-6 provides a complete listing of the BOC's

Board of Directors and officers, none of whom are employees, officers, or directors of the 272 Affiliate. In the FCC's order pertaining to BellSouth's Louisiana Section 271 filing, the FCC stated that,

> "We disagree with Sprint's contention that having one director for BSLD is insufficient to satisfy the requirement of section 272(b)(3) because one director cannot provide the collective oversight and consideration for the effective realization of the Board of Director's substantial responsibilities. Neither the statute nor our implementing regulations require a BOC to . . . establish a minimum number of Board members."[4]

Further, in its recent orders in the Bell Atlantic-New York and the SBC-Texas applications, the FCC stated that a comparison of the BOC and the Section 272 Affiliate's officer lists, as well as a payroll comparison which Ms. Schwartz discusses in her affidavit, satisfies the FCC's test for Section 272(b)(3) compliance.[5]

d. The 272 Affiliate and the BOC maintain and will continue to maintain separate payrolls. The 272 Affiliate currently employs a separate staff from the BOC. No 272 Affiliate employee is an employee of the BOC and, as long as applicable Section 272 requirements exist, no employees of the 272 Affiliate will be simultaneously employed by the BOC.

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4 BellSouth-LA II Order at ¶330.
5 BANY Order at ¶409; SBC-Texas Order at ¶401.

e. The 272 Affiliate, the BOC, and the Service Company have provided color identification material to employees that assist in identifying the associated affiliate. A certain color is reflected on an employee's badge and office nametag, e.g., red for the 272 Affiliate. The color indicates the affiliate for which a given employee works.

f. Separations between 272 Affiliate and BOC employees are maintained throughout. For example, when BOC employees provide payroll services to the 272 Affiliate, the services are documented in the form of a Work Order and the rates, terms, and conditions are available for public inspection, as required by Section 272(b)(5). When 272 Affiliate employees provide services to Qwest affiliates, including the BOC, the employees are required to time report and the BOC is charged for their time using rates set according to applicable FCC requirements. These services are documented in the form of a Task Order and the rates, terms, and conditions are available for public inspection, as required by Section 272(b)(5).

g. The 272 Affiliate initiates a series of activities when an employee accepts employment with another company in the Qwest corporate family. The departing 272 Affiliate employee must notify his/her manager of their decision to leave; a letter of resignation may accompany their notice, but is not required. A resignation date is then determined and prior to this date, the departing 272 Affiliate employee must return 272 Affiliate-owned assets and account for documents in their possession. After the resignation date, the 272 Affiliate removes the ex-employee from its payroll.

Organizationally, separation between the BOC and the 272 Affiliate is maintained throughout at all times. The FCC found in its order in BellSouth's Louisiana Section 271 filing (FCC 98-271), Paragraph 330, that "...[N]either the statute nor our implementing regulations require a BOC to outline the reporting structure of its affiliate's Board of Directors..." to show compliance with this section of this Act. To meet its burden of proof, the Section 272 subsidiary must only provide evidence that its officers, directors, and employees are separate from those of the BOC.

The 272 Affiliate's officers have a fiduciary obligation to the 272 Affiliate's Board of Directors to manage the business in an appropriate manner. The 272 Affiliate's Board of Directors has, in turn, similar obligations and responsibilities.

It is important to note that while Congress anticipated the need for structural separation between a BOC and the Section 272 subsidiary, the Act specifically contemplates that a BOC and its Section 272 subsidiary would be affiliates under a single parent company. The very structure utilized by Qwest Communications International Inc. is expressly sanctioned and expected by the express terms of Section

272. As affiliates, the 272 Affiliate and BOC have unique financial and business responsibilities and obligations to their boards of directors and ultimately to their shareholders, notwithstanding Section 272 requirements.

Further, these requirements will continue to be satisfied in all future movement of employees, officers, or directors. For example, if a 272 Affiliate director is moved to any position within the BOC, that person will not remain on the 272 Affiliate's board. Similarly, if an officer of the BOC is placed on the 272 Affiliate's board, that person will cease to be employed by or serve as an officer of the BOC.

### D. Section 272(b)(4) – No Recourse to BOC's Assets

Section 272(b)(4) states that the Section 272 Affiliate cannot obtain credit under any arrangement that would permit a creditor to have recourse to the assets of the BOC. Several facts establish the 272 Affiliate's satisfaction of this provision:

a. The 272 Affiliate has not requested, nor will it request, any Qwest entity, to co-sign a contract or any other agreement with the 272 Affiliate in a manner which would allow a creditor to obtain recourse to the BOC's assets.

b. The 272 Affiliate is capitalized separately from the BOC. Funding for the 272 Affiliate is provided by financial obligations issued by Qwest Capital Funding, Inc. ("QCFI"), a separate subsidiary of Qwest Communications

International Inc. The debt issued by QCFI is guaranteed by Qwest Communications International Inc., and neither the debt obligations issued by QCFI, nor the guarantee by Qwest Communications International Inc. provide creditors recourse to the assets of the BOC. The BOC issues its own direct financial obligations to fund its operations – principally commercial papers, notes, and bonds.

c. The Master Services Agreement ("MSA") between the BOC and the 272 Affiliate states that contracts entered into by the 272 Affiliate are the sole responsibility of the 272 Affiliate and has no recourse to the BOC's assets. In case of default, liability is limited to charges for costs incurred under the Agreement.

**E. Section 272(b)(5) – Transactions at Arm's Length, in Writing, and Publicly Available**

Section 272(b)(5) requires that all transactions between the 272 Affiliate and the BOC be at arm's length, with any such transactions reduced to writing and available for public inspection. The 272 Affiliate satisfies this provision as shown by the following facts:

a. The 272 Affiliate has and will continue to account for all transactions between itself and the BOC in accordance with the FCC's affiliate transaction rules.

b. All transactions between the 272 Affiliate and the BOC are documented as part of a MSA, Service Agreement ("SA"), stand-alone contract, or purchased as a tariffed service offering. The SA between the 272 Affiliate and the BOC is provided as Exhibit JLB-7. The other agreements are provided as exhibits to Ms. Marie E. Schwartz's affidavit.

c. All transactions between the 272 Affiliate and the BOC are posted on Qwest Communications International Inc.'s Internet Home Page site, the contents of which are intended to be part of this record:

http://www.qwest.com/about/policy/docs/qcc/overview.html

d. The 272 Affiliate, as an added protection, is required to contact its BOC Sales Executive Team, Sales Executive, to obtain access services. Sales Executives are the contact people who ensure that all interexchange carriers have equivalent access to the BOC's goods, services, facilities, and information. The 272 Affiliate's Sales Executive, as with any other carrier, contacts the representative in the BOC business unit providing the requested service and a manager in the BOC's Regulatory Accounting group.

e. The 272 Affiliate is also required to use the BOC Service Management Team as a single source of support for all provisioning, maintenance, and repair issues. The Service Management Team, as with any other carrier, handles escalations and service concerns.

## VI. SECTION 272(g) – JOINT MARKETING

Section 272(g) of the Act provides the guidelines the 272 Affiliate and the BOC must follow relative to joint marketing. The 272 Affiliate will not market or sell interLATA services with the BOC until the 272 Affiliate is authorized to provide interLATA service in the state of Arizona by the FCC. The 272 Affiliate understands its obligations under previous FCC 271 orders relative to Section 272, and is prepared to follow the joint marketing rules. In this application the 272 Affiliate will not be providing proposed marketing scripts or plans, nor is it required to do so. As stated in the FCC order for BellSouth–South Carolina, regarding proposed telemarketing script,

> "We do not require applicants to submit proposed marketing scripts as a precondition for Section 271 approval, nor do we expect to review revised marketing scripts on an ongoing basis once Section 271 authorization is granted. Applicants are free to tell us how they intend to joint market, although we do not require them to do so."[6]

The FCC reaffirmed this position in the Bell Atlantic–New York order by stating:

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6 *Application of BellSouth Corporation, et al. Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services in South Carolina*, CC Docket No. 97-208, Memorandum Opinion and Order, FCC 97-418 (rel. Dec. 24, 1997), ¶236.

> "We reject as inconsistent with Commission precedent AT&T's contention that Bell Atlantic must submit proposed marketing scripts in order to demonstrate compliance with Section 272(g)."[7]

Further, it is important to point out that in its *Non-Accounting Safeguards Order*, the FCC stated that "no regulations are necessary to implement section 272(g)(1)."[8]

Thus, for purposes of Section 272(g), the 272 Affiliate understands and will abide by this provision.

## VII. THE 272 AFFILIATE'S TRAINING EFFORTS

All Qwest Communications International Inc. employees, including those in the 272 Affiliate, are required to review the company's code of conduct and certify that they understand and will comply with company policies, including regulatory requirements. New hires to Qwest are obligated to go through this training within ten (10) days of hire.

In addition to overall corporate training efforts, all current 272 Affiliate employees received further Section 272-specific training using materials shown in Exhibit JLB-8.

The 272 Affiliate will use the Qwest Communications International Inc. Corporate Compliance Advice Line for reporting all Section 272 compliance issues. The Advice Line number is 1-800-333-8938. Any employee can call this number and get answers to their Section 272 issues as well as report suspected Section 272 violations.

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[7] BANY Order at ¶419.
[8] *Non-Accounting Safeguards Order*, 11 FCC Rcd at 22,043-44, at ¶286.

## VIII. CONCLUSION

My affidavit demonstrates how the 272 Affiliate will satisfy Sections 272(a), (b), and (g) of the Act, as well as the FCC's related rules. It also explains the steps the 272 Affiliate has taken to ensure its continued satisfaction of Section 272. Additionally, my affidavit addresses the 272 Affiliate's employee training and awareness efforts to assure continued satisfaction of Section 272.

**BEFORE THE ARIZONA CORPORATION COMMISSION**

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

| | |
|---|---|
| IN THE MATTER OF U S WEST COMMUNICATIONS, INC.'s COMPLIANCE WITH SECTION 271 OF THE TELECOMMUNICATIONS ACT OF 1996 | DOCKET NO. T-000000A-97-0238<br><br>**Affidavit of Judith L. Brunsting** |

STATE OF COLORADO )
)
COUNTY OF DENVER )

Judith L. Brunsting, of lawful age being first duly sworn, deposes and states:

1. My name is Judith L. Brunsting. I am Senior Director for Qwest Communications Corporation, located in Denver, Colorado.

2. Attached hereto and made a part hereof for all purposes is my Affidavit.

3. I hereby swear and affirm that my answers contained in the attached Affidavit to the questions therein propounded are true and correct to the best of my knowledge and belief.

Judith L. Brunsting
Judith L. Brunsting

SUBSCRIBED AND SWORN to before me this 16th day of Mar., 2001.

Dawn S Dale
NOTARY PUBLIC

DAWN S. DALE
NOTARY PUBLIC
STATE OF COLORADO

My Commission Expires:

Feb. 7, 2004

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

| | |
|---|---|
| IN THE MATTER OF U S WEST COMMUNICATIONS, INC.'S COMPLIANCE WITH SECTION 271 OF TELECOMMUNICATIONS ACT OF 1996 | DOCKET NO. T-00000B-97-238 |

EXHIBITS OF

JUDITH L. BRUNSTING

QWEST COMMUNICATIONS CORPORATION

MARCH 26, 2001

## INDEX OF EXHIBITS

# QWEST COMMUNICATIONS CORPORATION ARTICLES OF INCORPORATION

State of Delaware

# Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "SOUTHERN PACIFIC TELECOMMUNICATIONS COMPANY", CHANGING ITS NAME FROM "SOUTHERN PACIFIC TELECOMMUNICATIONS COMPANY" TO "QWEST COMMUNICATIONS CORPORATION", FILED IN THIS OFFICE ON THE SIXTH DAY OF APRIL, A.D. 1995, AT 2:01 O'CLOCK P.M.

A CERTIFIED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS FOR RECORDING.

Edward J. Freel, Secretary of State

0642301 8100

950076813

AUTHENTICATION: 7464880

DATE: 04-06-95

# CERTIFICATE OF AMENDMENT
# OF
# RESTATED CERTIFICATE OF INCORPORATION

SOUTHERN PACIFIC TELECOMMUNICATIONS COMPANY (the "Corporation"), a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Code"), does hereby certify:

FIRST: The Board of Directors of the Corporation, by unanimous written consent, has filed with the minutes of the board a duly adopted resolution proposing and declaring advisable the following amendment to the Restated Certificate of Incorporation of the Corporation:

> "RESOLVED, that the Board of Directors of the Corporation hereby authorizes and approves that the Corporation change its name from Southern Pacific Telecommunications Company to **Qwest Communications Corporation** by striking out Article 1. of the Corporation's Restated Certificate of Incorporation and substituting in lieu thereof the following new Article:
>
> 1. The name of the corporation is QWEST COMMUNICATIONS CORPORATION."

SECOND: The Board of Directors of the Corporation, by unanimous written consent, has directed that the foregoing amendment to the Restated Certificate of Incorporation of the Corporation be presented to the stockholders of the Corporation for their consideration.

THIRD: The stockholders of the Corporation have given their unanimous written consent to the aforesaid amendment to the Restated Certificate of Incorporation in accordance with the provisions of Section 228 of the Code.

FOURTH: That said amendment was duly adopted in accordance with the provisions of Section 242 of the Code.

IN WITNESS WHEREOF, Southern Pacific Telecommunications Company has caused this certificate to be signed by Douglas H. Hanson, its President, and attested to by A. K. Whitelaw III, its Assistant Secretary, this 6th day of April, 1995.

Southern Pacific Telecommunications Company

[SEAL]

By: ______________________

Name: Douglas H. Hanson

Title: President

ATTEST:

By: ______________________

Name: A. K. Whitelaw III

Title: Assistant Secretary

STATE OF DELAWARE
SECRETARY OF STATE
DIVISION OF CORPORATIONS
FILED 01:15 PM 05/16/1994
944086577 - 642301

RESTATED CERTIFICATE OF INCORPORATION
OF
SOUTHERN PACIFIC TELECOMMUNICATIONS COMPANY

Southern Pacific Telecommunications Company, a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certifies as follows:

A. The name of the Corporation is Southern Pacific Telecommunications Company. The Corporation was originally incorporated under the name Evergreen Leasing Corporation, and its original Certificate of Incorporation was filed with the Secretary of State of Delaware on June 10, 1966. The Corporation changed its name to Southern Pacific Telecommunications Company pursuant to a certificate of amendment filed on March 20, 1989.

B. This Restated Certificate of Incorporation was duly adopted in accordance with the provisions of Section 245 of the General Corporation Law of Delaware.

C. This Restated Certificate of Incorporation only restates and integrates and does not further amend the provisions of the Corporation's Certificate of Incorporation as previously amended and supplemented. There is no discrepancy between the provisions of the Corporation's

Restated Certificate of Incorporation as previously amended and supplemented and the provisions of this Restated Certificate of Incorporation.

D. The text of the Certificate of Incorporation as heretofore amended or supplemented is hereby restated to read in its entirety as follows:

Article 1. The name of the Corporation is SOUTHERN PACIFIC TELECOMMUNICATIONS COMPANY.

Article 2. The address of its registered office in the State of Delaware is 1209 Orange Street, in the City of Wilmington 19801, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.

Article 3. The nature of the business of the Corporation and the objects or purposes to be transacted, promoted or carried on by it are as follows: To engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

Article 4. (a) The total number of shares of all classes of stock that the Corporation is authorized to issue is 2,200,000 shares, consisting of 2,000,000 shares of Common Stock with a par value of $0.01 per share and 200,000 shares of Preferred Stock with a par value of $0.01 per share. The Preferred Stock may be issued in one or more series, and the Board of Directors of the Corporation is expressly authorized (i) to fix the designations, powers, preferences, rights, qualifications, limitations, and restrictions with respect to any series of Preferred Stock and (ii) to specify the number of shares of any series of Preferred Stock.

(b) Except as authorized by a resolution of the Board of Directors of the Corporation and expressly provided in writing by separate contract between the Issuer and a stockholder or proposed stockholder of the Corporation, no stockholder of the Corporation shall have any preemptive or similar right to subscribe for any additional shares of stock, or for other securities of any class, or for rights, warrants or options to purchase stock or for scrip, or for securities of any kind convertible into stock or carrying stock purchase warrants or privileges.

(c) Each stockholder of record entitled to vote shall have one vote for each share of stock standing in his name on the books of the corporation, except that in the election of directors he shall have the right to vote such number of shares for as many persons as there are directors to be elected. Cumulative voting shall not be allowed in the election of directors or for any other purpose.

Article 5. The board of directors is expressly authorized to make, alter, or repeal the bylaws of the Corporation.

Article 6. Elections of directors need not be by written ballot unless the bylaws of the Corporation shall so provide.

Article 7. Whenever a compromise or arrangement is proposed between this Corporation and its creditors or any class of them and/or between this Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this Corporation or of any creditor or stockholder thereof, or on the application of any receiver or receivers appointed for this Corporation under the provisions of Section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for this Corporation under the provisions of Section 279 of Title 8 of the Delaware Code order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this Corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of this Corporation, as the case may be, and also on this Corporation.

Article 8. The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

Article 9. To the fullest extent permitted by Delaware statutory or decisional law, as amended or interpreted, no director of this Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director.

IN WITNESS WHEREOF, the Corporation has caused this Restated Certificate of Incorporation to be signed and attested to by the undersigned on April 14, 1994.

SOUTHERN PACIFIC
TELECOMMUNICATIONS COMPANY

By: S.C. Portas
Name: Stephen S. Portas
Title: Executive Vice President

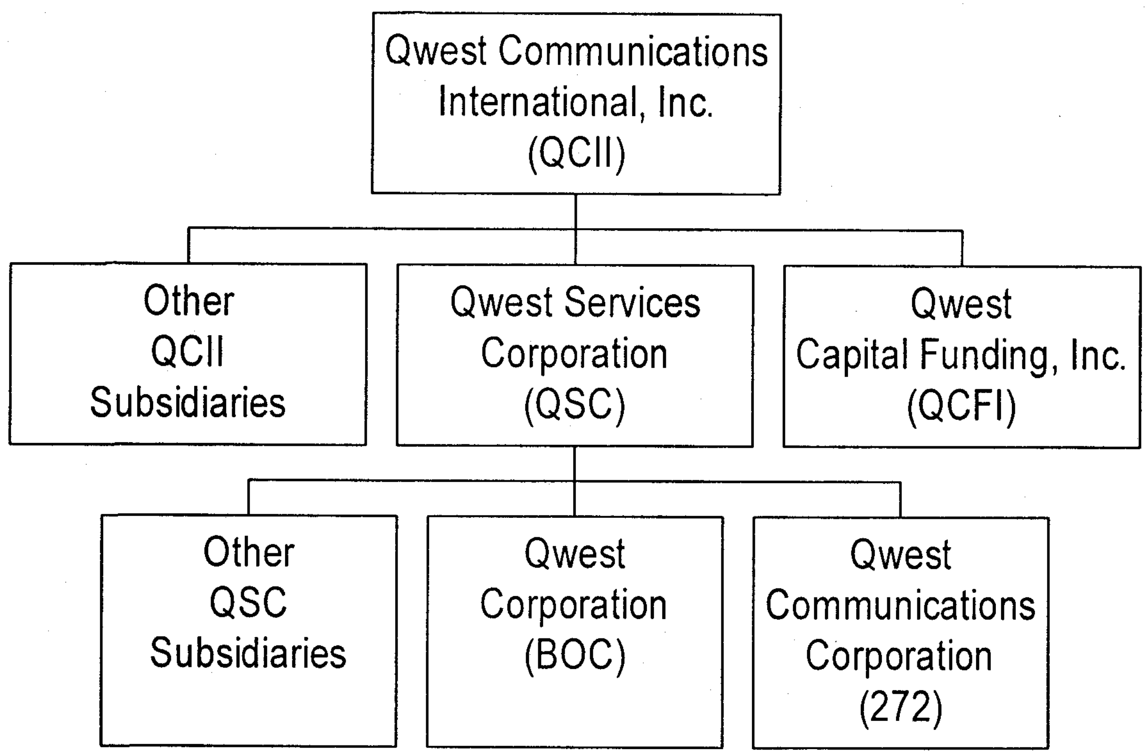
[Seal]

Attest:

Mary Ann Davis
Name: Mary Ann Davis
Title: Assistant Secretary

# QWEST CORPORATE STRUCTURE

# Qwest Corporate Structure




2/27/01

# QWEST COMMUNICATIONS CORPORATION CERTIFICATE OF DISCLOSURE FOR ARIZONA

# STATE OF ARIZONA

Office of the
**CORPORATION COMMISSION**

*To all to whom these presents shall come, greeting:*

*I, Brian C. McNeil, Executive Secretary of the Arizona Corporation Commission, do hereby certify that*

******QWEST COMMUNICATIONS CORPORATION******

***a corporation organized under the laws of the jurisdiction of Delaware was, on the 6th day of June 1989, authorized to transact business in the State of Arizona as a foreign corporation.***

***I further certify that this corporation has filed all affidavits and annual reports and paid all filing fees required to date and, therefore, is in good standing in this state.***

***IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Arizona Corporation Commission. Done at Phoenix, the Capitol, this 14th day of March, 2001, A. D.***

*Executive Secretary*

***BY:*** Craig Campbell

**CONFIDENTIAL/PROPRIETARY INFORMATION
CLASSIFICATION RATIONALE**

**(REDACTED VERSION)**

Description/Title of Information: QWEST COMMUNICATIONS CORPORATION CHART OF ACCOUNTS

Confidential/Proprietary Designation Rationale:

This exhibit categorizes the Chart of Accounts for Qwest Communications Corporation. This contains detailed confidential information about payroll and salaries, and information about marketing and revenue streams. Because this information would be valuable to Qwest Communications Corporation's competitors, it is proprietary.

# QWEST COMMUNICATIONS CORPORATION BOARD OF DIRECTORS

## QWEST COMMUNICATIONS CORPORATION
## OFFICERS

- Joseph P. Nacchio – Chairman, Chief Executive Officer and President
- Drake S. Tempest – Executive Vice President, General Counsel, Chief Administrative Officer and Secretary
- Marc B. Weisberg – Executive Vice President – Corporate Development
- Vacant – Executive Vice President and Chief Financial Officer
- Richard N. Baer – Senior Vice President and Deputy General Counsel
- R. Steven Davis – Senior Vice President, Deputy General Counsel and Assistant Secretary
- Joel Arnold – Senior Vice President – General Business Markets
- Richard Weston – Senior Vice President – Internet Solutions
- Yash A. Rana – Associate General Counsel and Assistant Secretary
- William Bryant – Assistant Treasurer

## DIRECTORS

- Drake S. Tempest – Director
- Vacant - Director

## QWEST CORPORATION
## OFFICERS

- James A. Smith – President
- Robert Tregemba – Senior Vice President – Network
- Mark Schumacher – Vice President & Controller
- Beth Halverson – Vice President – Wholesale
- Mark Pitchford – Vice President – Retail Markets
- Kamelia Davidson – Assistant Secretary
- Jennifer Pettus – Assistant Secretary

## DIRECTORS

- Augustine M. Cruciotti – Director
- James A. Smith – Director

Arizona Corporation Commission
Docket No. T-00000B-97-0238
Qwest Communications Corporation
Exhibits of Judith L. Brunsting
Exhibit JLB-6

# QWEST CORPORATION BOARD OF DIRECTORS

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Arizona Corporation Commission
Docket No. T-00000B-97-0238
Qwest Communications Corporation
Exhibits of Judith L. Brunsting
Exhibit JLB-7

# SERVICE AGREEMENT

SERVICES AGREEMENT

BETWEEN

QWEST COMMUNICATIONS CORPORATION

AND

QWEST CORPORATION

TABLE OF CONTENTS



EXHIBITS

# SERVICES AGREEMENT
# QWEST CORPORATION
# AND
# QWEST COMMUNICATIONS CORPORATION

THIS AGREEMENT is made as of the first day of _________ by and Between:

**Qwest Communications Corporation** (hereinafter "QCC")

**Qwest Corporation** (hereinafter "Qwest Corp") and:

The parties agree as follows:

## ARTICLE 1
## SERVICES

A. QCC agrees to provide services ("Services") to Qwest Corp as documented in a Task Order (incorporated herein as Exhibit A), and Qwest Corp agrees to pay for these services consistent with the Task Order.

B. The Task Order shall include at a minimum the following information:

- Description/Location of Service/s Requested
- Dates of Commencement and Completion of Service/s Requested
- Units and Price per Unit for Requested Service/s
- Costing Methodology
- Expected Frequency
- Special Equipment, if required
- Numbers (range) and type of personnel in work group to perform functions.

C. The parties shall comply with the Qwest Corporation Technology Fair Compensation Policy when Services requested include technical information, software, inventions, functional specifications, and other researched or developed products or Services.

## ARTICLE 2
## TERM

This Agreement shall become effective as of _________ and will remain in full force and effect until either party provides sixty (60) calendar days written notice of termination to the other party. If this Agreement is terminated prior to the completion of any Services, Qwest Corp shall pay for all charges billed and owing to QCC for Services performed up to and including the date of termination, provided Services performed are in accordance with the terms and conditions of this Agreement. QCC shall complete any such work in progress prior to the termination of the Agreement, and QCC shall perform such services in accordance with the terms and conditions of this Agreement.

## ARTICLE 3
## BILLING

A. QCC shall submit invoices to Qwest Corp for Services provided in accordance with the terms and conditions of this Agreement on a monthly basis unless otherwise specified in the Task Order. Qwest Corp shall notify QCC of the address to which invoices are to be sent.

B. Invoices shall include the following billing information as a minimum:

1. Invoice number
2. Payment due date
3. Date of Service
4. Description of charges
5. Applicable taxes
6. Total charge

## ARTICLE 4
## INDEPENDENT CONTRACTOR

QCC hereby declares and agrees that it is engaged in an independent business and will perform its obligations under this Agreement as an independent contractor and not as the agent or employee of Qwest Corp; that QCC does not have the authority to act for Qwest Corp or to bind Qwest Corp in any respect whatsoever, or to incur any debts or liabilities in the name of or on behalf of Qwest Corp; that any persons provided by QCC shall be solely the employees or agents of QCC under its sole and exclusive direction and control. QCC and its employees or agents are not entitled to Qwest Corp's unemployment insurance benefits as a result of performing under this Agreement. QCC shall be solely responsible for all matters relating to payment of its employees and agents, including compliance with worker's compensation, unemployment, disability insurance, social security withholding, and all other federal, state and local, rules and regulations. QCC shall indemnify and hold Qwest Corp harmless from any causes of action arising out of QCC's liability to its employees or agents.

## ARTICLE 5
## PROPRIETARY INFORMATION

Solely for the purposes of providing Services under this Agreement, each party grants to the other a nonexclusive, nontransferable license to use information provided by the other. Neither party shall publish, circulate, or otherwise distribute or disclose any such information that is marked proprietary or confidential to any third party other than its affiliates and its consultants who have executed a confidentiality agreement unless and until (1) the original disclosing party has consented to such disclosure and such third party executes a confidentiality agreement containing terms substantially similar to the ones contained in this Agreement, (2) such information has come into the public domain through no fault of Qwest Corp or QCC, (3) such information is otherwise in the possession of Qwest Corp or QCC free of any obligation of confidentiality, or (4) such party is required to do so by regulatory mandate.

Any third party information provided by Qwest Corp or QCC to the other party shall be deemed Qwest Corp or QCC information according to its source and shall be treated accordingly. If such information is subject to a separate agreement with a third party, the party receiving information agrees to hold and use the information in strict accordance with the separate agreement, provided it has knowledge of the separate agreement, unless otherwise instructed in writing by the party providing the information.

## ARTICLE 6
## INDEMNIFICATION

A. QCC shall indemnify and hold harmless Qwest Corp, its owners, parents, subsidiaries, affiliates, agents, directors and employees against all Liabilities to the extent they arise from or in connection with: (1) the fault or negligence of QCC, its officers, employees, agents, subcontractors and/or representatives; and/or (2) the furnishing, performance or use of any Services under this Agreement or any product liability claims relating to any Services; and/or (3) failure by QCC, its officers, employees, agents, subcontractors and/or representatives to comply with the Article entitled "Compliance with Laws;" and/or (4) assertions under workers' compensation or similar employee benefit acts by QCC or its employees, agents, subcontractors, or subcontractors' employees or agents.

B. Qwest Corp shall indemnify and hold harmless QCC, its owners, parents, subsidiaries, affiliates, agents, directors and employees against all Liabilities to the extent they arise from or in connection with: (1) the fault or negligence of Qwest Corp its officers, employees, agents, subcontractors and/or representatives; and/or (2) the furnishing, performance or use of any Services under this Agreement or any product liability claims relating to any Services; and/or (3) failure by Qwest Corp, its officers, employees, agents, subcontractors and/or representatives to comply with the Article entitled "Compliance with Laws," and/or (4) assertions under workers' compensation or similar employee benefit acts by Qwest Corp or its employees, agents, subcontractors, or subcontractors' employees or agents.

## ARTICLE 7
## LIMITATION OF LIABILITY

Neither party is liable to the other for consequential, incidental, indirect, punitive or special damages, including commercial loss and loss profits, however caused and regardless of legal theory or foreseeability, directly or indirectly arising under this Agreement. Notwithstanding the foregoing, the parties are liable in accordance with the provisions of this Agreement and this limitation of liability shall not apply to the indemnification obligations under this Agreement.

## ARTICLE 8
## REGULATORY SUPPORT

This agreement shall comply with all state statutes and regulations, and QCC shall bear the financial risk if it does not. The parties agree that to the extent Qwest Corp is under the regulation of federal or state agencies, QCC will provide cooperation and support for Qwest Corp's response to regulatory inquiries or discovery requests concerning this Agreement or relationships derived from this Agreement.

## ARTICLE 9
## COMPLIANCE WITH LAWS

A. The parties shall obtain and maintain at its own expense all permits and licenses and pay all fees required by law with respect to any Services and/or performance of this Agreement. The parties shall, in connection with performance of and Services under this Agreement, comply with all applicable federal, state, and local laws, ordinances, rules, regulations, court orders, and governmental or regulatory agency orders ("Laws"), including, without limitation:

1. The Communications Act of 1936, as amended and all rules, regulations and orders issued in connection with that Act and this Agreement shall, to the greatest extent possible, be construed to be consistent with the same.

2. Laws relating to non-discrimination in employment, fair employment practices, equal employment opportunity, employment opportunities for veterans, non-segregated facilities, and/or employment of the disabled, except to the extent a party is exempt therefrom; and the Laws and contract clauses required by those Laws to be made a part of this Agreement are incorporated herein by this reference.

3. The Laws referred to in the Article entitled "Independent Contractor".

B. QCC acknowledges that Purchase(s) and/or Confidential Information ("Exports") may be subject to U.S. and applicable foreign export laws or regulations. QCC shall perform its obligations under this Agreement in a manner consistent with the requirements of all applicable U.S. and all applicable foreign laws and regulations, including the U.S. export laws and regulations, the Foreign Corrupt Practices Act, and anti-boycott laws, and U.S. export laws and regulations prohibiting the unauthorized export or re-export of certain items to residents of countries listed in U.S. Export Administration Regulations.

C. The requirements of this Article shall survive the expiration, termination or cancellation of this Agreement. All provisions of this Article shall also apply to all subcontractors, and similar terms shall be included in all QCC's contracts with subcontractors.

## ARTICLE 10
## NOTICES

Where written notices, demands, or other communications are required under this Agreement, they shall be deemed duly given when made in writing and delivered to the other party's address listed below. Addresses may be changed by written notice to the other party. Notices shall be delivered by hand, overnight courier service or certified mail, return receipt requested. Notification will be deemed to have taken place upon delivery, if delivery is by hand, overnight courier service or five (5) calendar days after posting if sent by certified mail.

Qwest Communications Corporation
Attention: Contract Manager
Contract Development & Services
7800 East Orchard Road, Suite 250
Englewood, CO 80111-2526

Qwest Corporation.
Attention: Contract Specialist
Contract Development & Services
7800 East Orchard Road, Suite 250
Englewood, CO 80111-2526

## ARTICLE 11
## DISPUTE RESOLUTION

A. Any claim, controversy or dispute which arises between the parties, their agents, employees, officers, directors or affiliates ("Dispute") which the parties are unable to settle through consultation and negotiation may be mediated under the Commercial Mediation Rules of the American Arbitration Association ("AAA") by a mutually acceptable mediator. Any Dispute which cannot be resolved through negotiation or mediation shall be resolved by binding arbitration as provided in this Article. The arbitrability of claims shall be determined under the Federal Arbitration Act, 9 USC Secs. 1-16. Notwithstanding the foregoing, the parties may cancel or terminate this Agreement in accordance with its terms and conditions without being required to follow the procedures set forth in this Article.

B. A single arbitrator engaged in the practice of law, who is knowledgeable about the subject matter of this Agreement and the matter in Dispute, shall conduct the arbitration under the rules of the AAA then in effect, except as otherwise provided herein. The arbitrator shall be selected in accordance with AAA procedures from a list of qualified people maintained by the AAA. The arbitration shall be conducted in Denver, Colorado, and all expedited procedures prescribed by the AAA rules shall apply. The laws of Colorado shall govern the construction and interpretation of this Agreement. The arbitrator's decision and award shall be final, conclusive and binding, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

C. Either party may request from the arbitrator injunctive relief to maintain the status quo until such time as the arbitration award is rendered or the Dispute is otherwise resolved. The arbitrator shall not have authority to award punitive damages. Each party shall bear its own costs and attorneys' fees, and the parties shall share equally the fees and expenses of the mediator and arbitrator.

D. If any party files a judicial or administrative action asserting claims subject to arbitration, as prescribed herein, and another party successfully stays such action and/or compels arbitration of said claims, the party filing said action shall pay the other party's costs and expenses incurred in seeking such stay and/or compelling arbitration, including reasonable attorneys' fees.

E. QCC agrees that in the event of any Dispute between the parties, it will continue to provide Services without interruption.

## ARTICLE 12
## SEVERABILITY

Any term or provision of this Agreement which is held to be invalid, void, unenforceable or illegal will in no way affect, impair or invalidate the remaining terms or provisions, which will remain in full force and effect, consistent with the original intent of the parties. However, if such provision is an essential element of the Agreement, the parties shall promptly attempt to negotiate a substitute therefore.

| **Qwest Communications Corporation** | **Qwest Corporation** |
| --- | --- |
| ______________________ | ______________________ |
| Signature | Signature |
| ______________________ | ______________________ |
| Name Printed or Typed | Name Printed or Typed |
| ______________________ | ______________________ |
| Title | Title |
| ______________________ | ______________________ |
| Date | Date |

# SUMMARY OF AFFILIATE TRANSACTIONS

☐ Original Summary of Services ☐ Amendment ( # ) ☐ Terminated Services ☐ Asset Transfer

**For services provided or assets transferred: from ___to___ Qwest Corporation to __from__ _____, a Qwest affiliate.**
**Is the Qwest affiliate a Section 272 subsidiary: ___**

**Description of Services Provided or Assets Transferred:**

**Effective Date:** **Termination Date** (if applicable):

**Estimated Annual Revenues/Expenses to Qwest Corporation or Gross Book Value, listed by Primary USOA Account:**
Amount: Account:
$

**Methodology of Assigning Qwest Revenues/Expenses to the States:**
☐Standard company prorates
☐Other (Please explain below and specify the percentage assigned to each state.)

**Assets transferred at higher__or lower ___of net book value or fair market value.**
Net book value by state: $
Fair market value by state: $

**Expected Pricing Methodology for Services:**
___Tariff
___Rates in publicly filed agreements submitted to a state commission pursuant to Section 252(e)
___Prevailing Company Price
___Higher of Fully Distributed Cost or Fair Market Value
___Lower of Fully Distributed Cost or Fair Market Value

For Transactions with Section 272 Subsidiaries, Please Provide the Following Information:

Special Equipment:
Number of Personnel Required:
Title(s) of Personnel and Level of Expertise:
Expected Frequency: Daily
Pricing: See addendum for the actual prices charged.
Approved By:

| Qwest Corporation | Name of Qwest Affiliate: |
|---|---|
| Signed: __________ | Signed: __________ |
| Printed Name: __________ | Printed Name: __________ |
| Title: __________ | Title: __________ |
| Date: __________ | Date: __________ |

**Comments:**

# QWEST COMMUNICATIONS CORPORATION EMPLOYEE TRAINING

# QWEST COMMUNICATIONS CORPORATION

## SECTION 272 COMPLIANCE

Conducting Business With Qwest Corporation

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# Definitions

- Qwest Communications International Inc.: the publicly-traded parent company of all Qwest affiliates
- Qwest Corporation (QC) : formerly known as U S WEST Communications, Inc. QC is the "pre-merger U S WEST" incumbent local exchange carrier and Regional Bell Operating Company (RBOC)
- Qwest Communications Corporation (QCC): the "pre-merger Qwest" operating company and separate 272 affiliate of QC through which Qwest will ultimately provide in-region, interLATA services upon receipt of 271 relief

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# Section 272 Requirements

- Qwest Communications International Inc. must create a separate affiliate and properly operate the separate affiliate in order to be permitted to offer in-region, interLATA long distance service
- Contains 4 key provisions plus audit requirements which are of particular importance to QCC
  - Section 272(a) - Separate Affiliate
  - Section 272(b) - Structural and Transactional
  - Section 272(c) - Nondiscrimination
  - Section 272(d) - Biennial Audit
  - Section 272(g) - Joint Marketing Provisions
- Section 272 defines the separate affiliate structure and business relationship between QC and QCC, which is known as the Section 272 or long distance subsidiary

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# Section 272 Requirements

**Section 272(a) - Separate Affiliate**

- QC may only offer in-region, interLATA long distance service through a separate affiliate
  - QCC is an indirect, wholly owned subsidiary of Qwest Communications International Inc.
  - QCC holds certificates of authority to transact business in all 14 states in Qwest's service territory
  - QCC does not own stock of QC and QC does not own stock of QCC

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# Section 272 Requirements

**Section 272(b) - Structural and Transactional**

- This section is a critical component of Section 272
  - Assures competitors that QC and QCC are operating independently and QCC is not receiving preferential treatment that would give it an unfair advantage in the market
- 5 key provisions must be demonstrated to show separateness
  - Operate independently
  - Separate books, records, and accounts
  - Separate officers, directors, and employees
  - Creditors of QCC may not have recourse to QC assets
  - Transactions at arm's length, reduced to writing, and posted on the Internet

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# Section 272 Requirements

**Section 272(b)(1) - Operate Independently**

- QC and QCC cannot jointly own network facilities, or the land or buildings where those facilities are place
  - No transfer of any network facilities from QC to QCC
  - No operation, installation, or maintenance (OI&M) of QC's facilities by QCC
  - No OI&M on QCC facilities by QC or any other Qwest affiliate
- QC cannot provide discriminatory access to network service

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# Section 272 Requirements

**Section 272(b)(2) - Separate Books, Records, and Accounts**

- QCC must maintain books, records, and accounts separate from the books, records, and accounts of QC

**Section 272(b)(3) - Separate Officers, Directors, and Employees**

- QC and QCC cannot share officers, directors, or employees
- Employees who perform functions supporting QCC are required to report their time so that QCC can be billed appropriately

**Section 272(b)(4) – Creditors of QCC May Not Have Recourse to QC Assets**

- QCC cannot obtain credit under any arrangement that would permit a creditor to have recourse to QC's assets
  - QCC's obligations are not co-signed by QC; nor are they co-signed by Qwest Communications International Inc. in a manner that would allow recourse to the assets of QC

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# Section 272 Requirements

**Section 272(c)- Nondiscrimination**

- QC must provide the goods, services, facilities, and information that it provides to QCC to other long distance carriers at the same rates, terms, and conditions
- How does QC and QCC demonstrate compliance with Section 272(c)?
  - QCC must obtain information and services through the same QC processes as other interexchange carriers
  - QCC must obtain other services through a QC carrier account team in the same manner as other interexchange carriers
  - QC must post transactions between QC and QCC on its Internet site

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# What does Section 272 mean to me?

- QCC is ready to provide interLATA long distance service in-region upon QC's Section 271 approval because:
  - A separate affiliate has been formed
  - Necessary processes are in place
  - A structure has been created
  - Employees possess knowledge of the requirements needed to meet and remain compliant with Section 272
- The FCC has authority, under certain circumstances, to retract QC's interLATA authority after it receives Section 271 authority
  - Section 272 requirements must be understood and adhered to by all QC and QCC employees without exception
  - QC employees that interact with QCC or about QCC business must take steps to comply with all requirements

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# Section 272 Requirements

**Section 272(b)(5) - Transactions at Arm's Length, Reduced to Writing, and Posted on Internet**

- All transactions between QC and QCC must be reduced to writing
  - Transactions are documented by tariff, stand-alone agreement, or service agreements
- All transactions between QC and QCC must be posted to the Internet within 10 days by QC Regulatory Accounting
- Rates, terms, and conditions of every transaction must be publicly available to ensure accounting safeguards are maintained

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# Section 272 Requirements

**Section 272(d) - Biennial Audit**

- Section 272 requirements will be audited every two years beginning twelve months after Section 271 authority is obtained and QCC is providing in-region, interLATA long distance services

**Section 272(g) - Joint Marketing Provisions**

- Provides one clear exception to Section 272(c) nondiscrimination requirements
  - Once Section 271 authority is secured, QC may jointly market in-region, interLATA long distance services with QCC
- Like all transactions, QC must document joint marketing agreements and post them to the Internet within 10 days

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# What if I need a product, service, or information from QC?

- Complete a "Qwest Corporation Request for Affiliate Provided Products/Services/Information" form detailing your business needs
  - A request for standard tariff offerings will continue to go through the QC Wholesale Carrier Account Team for QCC
- Submit the form to the QC Wholesale Senior Account Manager who will review it for consideration
  - If the service is not offered by QC, QCC should contact the party directly
  - If the request is for a service currently offered under the Master Services Agreement, the QC Wholesale Senior Account Manager will forward the request to the Business Unit Affiliate Manager to prepare a work order
- New requests will be reviewed by the QC Compliance Team, Legal, and the associated business unit to determine the risks to the corporation and the business unit's willingness to provide the products/service/information to QCC and if necessary, to others, if asked

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# What if I need a product, service, or information from QC? (cont.)

- QCC will be notified of the Compliance Team's final determination by the QC Wholesale Senior Account Manager
  - If the answer is "no", QCC can appeal the decision to QC officer level
  - If the answer is "yes", the QC Wholesale Senior Account Manager sends the request to QC FCC Regulatory Accounting for work order preparation
- FCC Regulatory Accounting determines if the Master Services Agreement covers the new request
  - If it does, the QC Wholesale Senior Account Manager forwards the request to the Business Unit Affiliate Manager to prepare a work order
  - If not, the Agreement is amended and approved by QC and QCC and then a new work order is prepared, priced, and approved
- New work orders must be approved before the requested service/product/information can be provided
- Approved documents -- work order/Master Services Agreement amendment -- must be posted on the Internet within 10 days

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# Where can I go for more information?

- If you have questions, contact your supervisor or QCC Regulatory Compliance Manager
  - FCC/Regulatory Compliance Managers may be found at http://denntwsi014.qwest.net:1980/departments/compliance/training/cpni_main.html
- If you still have questions after talking to your supervisor or QCC Regulatory Compliance Manager, you may:
  - Send e-mail questions to "ask272@qwest.com"
  - Section 272 Affiliate Transactions Website - www.qwest.com/about/policy/docs/long_distance.html
  - Carrier Wholesale Organization – www.qwest.com/wholesale
  - Effective Tariffs – http://tariffs.uswest.com:8000/iiop/WAImap?objectid=0-2826
  - Corporate Compliance Advice Line -- 800-333-8938

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